

8 MAY 1947

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8 MAY 1947

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of  
EXHIBITS

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1295	2561		Chief of Staff Very Secret Central China Operational Order No. 125 - Order to the Expeditionary Army in Central China, dated 24 October, Commanding Head- quarters Kiuking		21729
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923	2565		Article appearing on 6 July 1944 in The ASAHI Shimbun (published with the title "Embrace the People with Great Love") dispatched on the 5th from a Member of the Information Corps from the Front Lines of HUNAN Province to Officers and Men		21758
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I N D E X

Of

EXHIBITS

(cont'd)

<u>Doc.</u> <u>No.</u>	<u>Def.</u> <u>No.</u>	<u>Pros.</u> <u>No.</u>	<u>Description</u>	<u>For</u> <u>Ident.</u>	<u>In</u> <u>Evidence</u>
1000	2569		Map showing the various Sectors or Divisions of Hankow, showing various Routes of Entry of the various Units and their disposition		21783
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1 Thursday, 8 May 1947

2 - - -

3  
4 INTERNATIONAL MILITARY TRIBUNAL  
5 FOR THE FAR EAST  
6 Court House of the Tribunal  
7 War Ministry Building  
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,  
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense, same as before.

16 - - -

17 (English to Japanese and Japanese  
18 to English interpretation was made by the  
19 Language Section, IMTFE.)  
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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: I have the following  
4 statement to make on behalf of the Tribunal.

5 The Tribunal views with concern the waste  
6 of material and time due to the processing and tender-  
7 ing of, and argument upon, documents which the Tribunal,  
8 in view of earlier decisions, is quite unlikely to  
9 admit as evidence.

10 The Tribunal thinks that this is not due to  
11 any desire on the part of the defense counsel to  
12 withhold their cooperation with the Tribunal to  
13 secure an expeditious trial but that it is due to the  
14 fact that very few, if any, defense counsel spend the  
15 whole of their time in court. In fact, it is not  
16 practicable that all defense counsel should do so.  
17 While one section is presenting a part of the defense  
18 other sections are necessarily absent preparing later  
19 stages of the defense case. Because of this the  
20 decisions of the Tribunal are not known to all  
21 counsel unless they carefully read and study the  
22 transcript of the proceedings.

23 To illustrate the cause of some of the  
24 delay, the Tribunal refers to the repeated attempted  
25 breaches of the rule that opinion evidence will not

1 be received. The Tribunal cannot receive opinions  
2 on law nor opinions on any other matter not the  
3 proper subject of expert evidence.

4 Again, there are repeated attempted  
5 breaches of the rule that the contents of a docu-  
6 ment cannot be stated in evidence unless the document  
7 is produced or convincing reasons given why it is  
8 not available for production.

9 Again, much time is wasted in tendering,  
10 against the decisions of the Tribunal, statements in  
11 the nature of propaganda. We refer more particularly  
12 to statements in newspapers and to statements issued  
13 for public consumption by the spokesman of, say, the  
14 Japanese Foreign Office. The Tribunal has admitted  
15 many statements by the Foreign Minister and other  
16 Japanese ministers, including the accused, which  
17 might well appear to be propaganda. These have been  
18 admitted to enable the Japanese Government's view-  
19 point to be revealed. But, obviously, it is unneces-  
20 sary to tender many of these when, as a matter of  
21 fact, they are nearly all to the same effect.

22 The Tribunal earnestly invites counsel,  
23 both American and Japanese, to study the decisions  
24 of the Tribunal on evidence with a view to saving  
25 material and time.



KAWABE, M.

CROSS

1           If counsel for any reason think a document  
2 should be tendered, notwithstanding any decision of  
3 the Tribunal to the contrary, there is nothing to  
4 prevent them at a convenient time from listing all  
5 such documents and having them formally objected to  
6 and rejected for record purposes. That would meet  
7 every possible requirement without involving any  
8 waste of paper or time.

9           Mr. Sutton.

10          MR. SUTTON: I desire to ask only a few  
11 questions.

12                               - - -

13          M A S A K A Z U   K A W A B E, resumed the stand and  
14 testified through Japanese interpreters as  
15 follows:

16                               CROSS-EXAMINATION

17          BY MR. SUTTON (Continued):

18           Q    How much in secret funds were sent to the  
19 Central China Expeditionary Forces under the command  
20 of General HATA while you were chief of staff from  
21 February to December, 1938?

22           A    I have no recollection as to the amount.

23           Q    Can you tell us approximately how much in  
24 secret funds were sent to the China Expeditionary  
25 Forces under the command of General HATA while you

KAWABE, M.

CROSS

1 were general chief of staff from August 1942 until  
2 the summer of 1943?

3 A Regarding this point also I regret that I  
4 have no recollection.

5 Q What accounting, if any, was made of these  
6 secret funds?

7 A What do you mean by contents and others?

8 Q I mean the report as to the manner in which  
9 they were used.

10 A These were handled as official documents,  
11 accounting documents, but I do not know where they  
12 are or what they contain -- I do not know where they  
13 are at the present time.

14 Q Is it not a fact that the officers to whom  
15 the secret funds were sent were not required to account  
16 for their use?

17 A It was not that there was no necessity to  
18 make reports but from the standpoint of accounting,  
19 the responsible persons took appropriate measures as  
20 official accounting documents.

21  
22 It was not that no explanation was required  
23 but these documents, that is, accounting documents,  
24 were handled by the respective responsible persons and  
25 handled as accounting documents.

Q To whom were the reports of the use of the

KAWABE, M.

CROSS

1 secret service fund sent?

2 A It is supposed to have been sent -- it  
3 was sent to the general staff command in Tokyo from  
4 the China Expeditionary Forces.

5 Q Were not these secret funds used to assist  
6 and promote the so-called "autonomous movement" in  
7 China?

8 A There is no such case.

9 Q These funds were in addition to the regular  
10 army budget, were they not?

11 A The army in China, although I do not know  
12 what the Central Command had in mind, I can say that  
13 the expeditionary forces in China received this money  
14 and although they are called secret funds they were  
15 used as official funds by the expeditionary forces  
16 in their budget -- the expeditionary forces as well  
17 as the various units under its command. The secret  
18 funds although called secret funds were handled in  
19 the same manner as ordinary funds.

20 Q They were in addition to the regular army  
21 budget, were they not?

22 A As far as the expeditionary forces were  
23 concerned they handled these funds in the ordinary way.

24 Q Were any other funds sent to the Central  
25 China Expeditionary Forces except the secret fund



KAWABE, M.

CROSS

referred to on page 7 of your affidavit?

1           A     There is no such thing.

2           Q     And these were all the funds that you  
3 received from Tokyo?

4           A     Yes.

5           MR. SUTTON: That concludes the cross-  
6 examination.

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1 MR. LOGAN: There will be no redirect  
2 examination, if the Tribunal please.

3 I ask permission to introduce through this  
4 witness two orders, one of which refers to a por-  
5 tion of the witness' testimony which was objected  
6 to by the prosecution yesterday on the ground we  
7 had not produced the document. I now have it. May  
8 I proceed to do so?

9 THE PRESIDENT: Yes, you may.

10 MR. LOGAN: May the witness be shown  
11 defense document No. 1295.

12 THE PRESIDENT: Brigadier Quilliam.

13 BRIGADIER QUILLIAM: The prosecution  
14 objects to the introduction of this document.

15 I beg my friend's pardon. I understood  
16 he had offered it. He tells me he has not offered  
17 it yet.

18 REDIRECT EXAMINATION

19 BY MR. LOGAN:

20 Q Will you tell us what that document is?

21 A That is an order issued by the Commanding  
22 Headquarters at Kiuking on the 24th of October by  
23 the Commander of the expeditionary army in Central  
24 China prior to the Hankow campaign in order to  
25 raise the morale of the troops.

1 Q And was General HATA the Commander at  
2 that time?

3 A Yes.

4 MR. LOGAN: I offer defense document  
5 No. 1295 in evidence.

6 THE PRESIDENT: Brigadier Quilliam.

7 BRIGADIER QUILLIAM: May it please the  
8 Tribunal, it is suggested that the witness has  
9 just given the best ground for rejecting this  
10 document that could be given, namely, that it  
11 was issued to raise the morale of the troops.

12 THE MONITOR: This is the Language Sec-  
13 tion speaking, sir. The words, "raise the morale,"  
14 were used in error. The word "Kisei" means to  
15 regulate armies, discipline.

16 THE PRESIDENT: What part of the affida-  
17 vit mentions this particular document?

18 MR. LOGAN: I believe it is intended, if  
19 your Honor please, to cover that paragraph on the  
20 bottom of page 4 and top of page 5, which was not  
21 read due to the objection of the prosecution.

22 THE PRESIDENT: That paragraph 4, that  
23 was objected to, that particular part was objected  
24 to.

25 MR. LOGAN: That is right.



1 THE PRESIDENT: And the objection was  
2 sustained because the document was not produced  
3 or accounted for then. Well, this is the document  
4 or a copy thereof. Brigadier Quilliam has con-  
5 tended it is irrelevant anyhow.

6 BRIGADIER QUILLIAM: That is so. It is  
7 submitted, if it please your Honor, that the only  
8 sentence in it that could have any application to  
9 any issue in this case is to be found at the bottom  
10 of page 1 in paragraph 1. It is submitted that  
11 those words referring to control and preventing  
12 disorder cannot make this document admissible as  
13 relevant.

14 THE PRESIDENT: Well, perhaps, it helps  
15 the prosecution. My attention has been drawn to  
16 the second paragraph of this defense document, 1295,  
17 which discloses that the original plan was to ad-  
18 vance on three cities, Wuchang, Hankow, and Han-  
19 yang. The disorder referred to, as pointed out by  
20 Brigadier Quilliam, would appear to be disorder  
21 within the Japanese Army itself and to be related to  
22 an effective advance by that army. It refers to,  
23 as one of my colleagues puts it, conduct in the  
24 nature of military disorder and not vis-a-vis  
25 civilians; but toward the end of the order on-

KAWABE, M.

REDIRECT

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20 Brigadier Quilliam, would appear to be disorder  
21 within the Japanese Army itself and to be related to  
22 an effective advance by that army. It refers to,  
23 as one of my colleagues puts it, conduct in the  
24 nature of military disorder and not vis-a-vis  
25 civilians; but toward the end of the order on

1 page 2 there is a reference to no greater force  
2 being used than is absolutely necessary for clear-  
3 ing and garrisoning the area. That may extend, of  
4 course, to conduct vis-a-vis civilians.

5 The Tribunal overrules the objection  
6 and admits the document.

7 CLERK OF THE COURT: Defense document  
8 1295 will receive exhibit No. 2561.

9 (Whereupon, the document above  
10 referred to was marked defense exhibit  
11 No. 2561 and received in evidence.)

12 MR. LOGAN; I now read defense docu-  
13 ment 1295, being exhibit 2561:

14 "Chief of the Staff Very Secret Central  
15 China Operational Order A No. 125.

16 "Order to the Expeditionary Army in  
17 Central China. 10 a. m., October 24. Commanding  
18 Headquarters Kiuking.

19 "1. Pressed by our brave, united action,  
20 the enemy seem to have begun a general retreat. The  
21 21st Army has already completely captured Canton.

22 "2. The Army is with swift and resolute  
23 movement, going to carry out the original plan to  
24 advance on the three cities, Wuchang, Hankow, and  
25 Hanyang.



1                   "3. The 2nd and the 11th Armies shall  
2 advance on Wuchang, Hankow, and Hanyang according  
3 to the general instructions given in the attached  
4 paper.

5                   "The Chiefs of Staff shall give concrete  
6 directions concerning details.

7                   "Attached to the Order.

8                   "General Instructions Concerning the  
9 Advance on the Three Cities of Wuhan Area.

10                  "1. The two armies shall see that units  
11 which are to be engaged in the attack on the three  
12 cities, Wuchang, Hankow, and Hanyang are well con-  
13 trolled with regard to the area and order of action  
14 and numerical strength of each unit, so that dis-  
15 order may be prevented in the course of their ad-  
16 vance.

17                  "The areas of operation to be placed  
18 under the above control are to be bounded by the  
19 following lines:

20                  "Hankow:

21                   The 1st boundary along the Chankung  
22 embarkment.

23                   "The 2nd boundary along the railway  
24 between the Philippping Wharf and the point on the  
25 embarkment opposite the lower wharf of the Kang

KAWABE, M.

REDIRECT

1 Yao-chang (TN: an ammunition factory) situated  
2 on the Hansui River.)

3 "Wuchang:

4 "Along the old city wall except in the  
5 north, where the boundary is the railway between  
6 Tzekinshan and Hankuan.

7 "Hanyang:

8 "Along the Kiakiang, the creek leading  
9 to Tungyuehhu and the line reaching the east end  
10 of Kang Yao-chang via Tungyuehhu.

11 "2. When each Army reaches the above-  
12 mentioned limits, it shall appoint special units  
13 to advance into and clear the area. The numerical  
14 strength and the order of action of such units  
15 shall be decided by the commanders of the two  
16 armies according to the area of operation of each  
17 army. However, it is required that no greater  
18 force than that absolutely necessary for the clear-  
19 ing and garrisoning of the area shall be admitted  
20 into the area."  
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KAWABE, M.

REDIRECT

1           May the witness be shown defense document  
2 1274

3           Q     Will you tell us what that document is?

4           A     This document was issued to the units  
5 under the command of the China Expeditionary Forces  
6 on 8 December 1942 as Chief of the General Staff  
7 in accordance with the wishes of the commander, and  
8 the order sent to all troops under command of the  
9 expeditionary forces. It is a part of that order.

10          Q     Who issued that order?

11          A     It is not an order. It is a record of a  
12 broadcast that I had made at that time and the purport  
13 of this was to convey the ideas and thoughts of the  
14 commander in understandable, plain words to the  
15 soldiers, officers and men.

16               MR. LOGAN: I offer in evidence defense  
17 document 1274.

18               MR. SUTTON: Prosecution objects to the  
19 introduction of this document as it is not referred  
20 to in the affidavit of this witness.

21               THE PRESIDENT: No, it is not a document at  
22 all. It appears to be a record made by him. He could  
23 refresh his memory from it. If this were not re-  
24 examination he could be asked to amplify paragraph 14  
25 of the affidavit and could refresh his memory from



KAWABE, M.

REDIRECT

1 this document; but it is not re-examination.

2 Nothing was raised in cross-examination about this  
3 paragraph. Shortly, it is not a document. It is  
4 merely notes from which the witness might have re-  
5 freshed his memory when being examined in chief.  
6 That is my view, but at all events I do not think it  
7 is a document in the sense that a document is intended  
8 here by these rules. It is not referred to in the  
9 affidavit in any event as a document

10 MR. LOGAN: The certificate, your Honor,  
11 shows that it is an excerpt from a booklet, "Soldiers  
12 of the China Expeditionary Force during the Pacific  
13 War," compiled and issued by order of Supreme Commander  
14 HATA for the subordinates of his command.  
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KAWABE, M.

REDIRECT

1 THE PRESIDENT: Let us hear again what the  
2 witness said about this and compare it with the cer-  
3 tificate. They do not appear to be consistent.

4 Will the English court reporter please tell  
5 us what the witness said about these notes?

6 (Whereupon, the official court  
7 reporter read as follows:)

8 "A This document was issued to the units under  
9 the command of the China Expeditionary Forces on 8  
10 December, 1942 as Chief of the General Staff in  
11 accordance with the wishes of the commander, and the  
12 order sent to all troops under command of the Expe-  
13 ditionary Forces. It is a part of that order.

14 "Q Who issued that order?

15 "A It is not an order. It is a record of a  
16 broadcast that I had made at that time, and the pur-  
17 port of this was to convey the ideas and thoughts of  
18 the commander in understandable, plain words to the  
19 soldiers, officers and men."

20 THE PRESIDENT: It is a record of a broadcast  
21 that the witness made. As regards him, it is only  
22 notes of something he heard from which he could re-  
23 fresh his memory, and there is no rule of evidence  
24 that admits it. But, we are not bound by the rules  
25 of evidence; and, if my colleagues want the thing

KAWABE, M.

REDIRECT

1 admitted as a document, well, let it be admitted.  
2 That is all I can say.

3 By a majority, the Court overrules the ob-  
4 jection and admits the paper.

5 CLERK OF THE COURT: Defense document 1274  
6 will receive exhibit No. 2562.

7 (Whereupon, the document above re-  
8 ferred to was marked defense exhibit No.  
9 2562 and received in evidence.)  
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KAWABE

REDIRECT

1 MR. LOGAN: I will now read defense document  
2 1274, being exhibit 2562:

3 "Excerpt from 'Soldiers of the China Expe-  
4 ditionary Forces during the Pacific War'

5 "On December 8, 1942.

6 "The General Headquarters of the China Ex-  
7 peditionary Forces.

8 "From the fifth line of the ten page

9 "To the eighth line of the eleventh page.

10 "Establish strict military discipline.

11 "Military discipline is the foundation of the  
12 army. Officers and men should be warned against the  
13 tendency of becoming weary of war at this time when the  
14 war has already been in progress for a long time. If  
15 the determination to bring the long war to a success-  
16 ful close should be shattered in battle, or give way  
17 to feelings, be influenced by the environment, act with  
18 violence, and thus impair the prestige and sacredness  
19 of the army, you would not only disgrace the meritorious  
20 service of your predecessors, but would be sure to be  
21 alienated from the Chinese people and would be pre-  
22 vented from attaining the object of the holy war. Bear  
23 in mind the fact that the dignified attitude of the  
24 Imperial Army and the dignity of strict military dis-  
25 cipline are the most essential factor to attain the ob-

KAWABE, M.

REDIRECT

1     ject of the holy war, thereby enabling you to anni-  
2     hilate the powerful enemy, to maintain public peace  
3     and order and to win the confidence of the people at  
4     large. You should, of course, strive to make complete  
5     the supreme command and to carry out your duties thor-  
6     oughly; in additon, you should reflect on your conduct  
7     at all time so that it is not opposite the fundamental  
8     principle of the army.

9             "From the sixth line of the thirteenth page

10            "To the second line of the sixteenth page.

11            "2. The keynote of the friendly relations  
12     between Japan and China lies in showing Japan's sin-  
13     cerity toward China; far more important is the showing  
14     of personal sincerity by both the Chinese and Japanese.  
15     Every act on the part of the officers and men of the  
16     Japanese army should emanate from the spirit in which  
17     they are prompted to translate sincerity into action.  
18     This practice should, in compliance with the Imperial  
19     will, be based on the sincere sentiment of neighbor-  
20     liness and on such broadmindedness as places hearty  
21     confidence in other persons.

22            "3 Respect the tradition and the manners and  
23     customs of the Chinese. Every race has its own tradi-  
24     tion. There are many cases when we get results which  
25     are contrary to our expectation, because of our in-

KAWABE, M.

REDIRECT

1 capability of understanding the character, tradition,  
2 manners, and customs of the Chinese, and treat them  
3 according to the Japanese manner or what is better known  
4 as the temper of a soldier, and in extreme cases force  
5 them into obeying without reasons. Moreover, in carry-  
6 ing our guard duty many forget from time to time the  
7 spiritual side of things and try to enforce things only  
8 through formality, and in this way without realizing it  
9 increases bitter feelings among the Chinese.

10 "In this way you are inclined to compromise  
11 the honor of the Chinese without realizing it, and to  
12 interfere with their affairs, or incur their ill-feeling  
13 by speaking carelessly to them, or if you lose their  
14 friendly feeling by saying or doing in a fit of passion  
15 such thoughtless words or deeds as they feel insulting  
16 in the presence of the public and if they have a grudge  
17 against the Japanese, then the spiritual combination  
18 of the Chinese with the Japanese cannot possibly be at-  
19 tained and the prospect of the holy war will be far from  
20 bright. The officers and men of the China Expeditionary  
21 Forces should realize the fact that the Chinese people  
22 will admire and be devoted to the Japanese only when  
23 the latter bear themselves properly and are lenient  
24 toward the former."  
25

MR. LOGAN: May the witness be excused on the



KAWABE, M.

REDIRECT

1 usual terms?

2 THE PRESIDENT: The witness is excused  
3 accordingly.

4 (Whereupon, the witness was excused.)  
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HASEGAWA

DIRECT

1 MR. LOGAN: I ask that the witness HASEGAWA,  
2 Kiyoshi be called to the stand.

3 - - -

4 K I Y O S H I H A S E G A W A, called as a witness  
5 on behalf of the defense, being first duly sworn,  
6 testified through Japanese interpreters as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. LOGAN:

10 Q What is your name and address?

11 A My name is HASEGAWA, Kiyoshi. My address  
12 is Tokyo, Shibuyaku, Yoyogi, Oyamacho 1032.

13 THE MONITOR: Mr. Logan, the Language Section  
14 does not have the affidavit of this witness. Unless  
15 we have it, we cannot give you simultaneous trans-  
16 lation.

17 MR. LOGAN: 1370?

18 THE MONITOR: No, sir.

19 MR. LOGAN: We'll hand it to you in a minute.

20 THE PRESIDENT: It is a very brief affidavit.

21 Q Will you examine defense document 1370 and  
22 tell us if that is your signature and seal affixed  
23 thereto?

24 A Yes, there is.

25 Q Are the statements contained in that affi-

HASEGAWA

DIRECT

1   davit accurate and true?

2       A   There is no mistake.

3       MR. LOGAN: I offer in evidence defense  
4   document 1370.

5       THE PRESIDENT: Admitted on the usual terms.

6       CLERK OF THE COURT: Defense document 1370  
7   will receive exhibit No. 2563.

8       (Whereupon, the document above re-  
9   ferred to was marked defense exhibit No.  
10   2563 and received in evidence.)

11       MR. LOGAN: I shall now read in evidence  
12   defense document 1370, being exhibit 2563, affidavit  
13   of HASEGAWA, Kiyoshi.

14       "My brief history is:

15       "Graduated from Naval College in December,  
16   1903.

17       "Appointed rear-admiral in December, 1927.

18       "Appointed Admiral in April, 1939.

19       "Placed on the Flag-ship IZUMO, as the  
20   Comrander-in-Chief of the Third Fleet, from December  
21   1936 to April, 1939, and stayed chiefly in Shanghai.

22       "The Headquarters of the Third Fleet was  
23   placed in Shanghai and its duty was to guard the coast  
24   of China. That is, protect the lives and property of  
25   Japanese residents on the coast of China and also to



HASEGAWA

DIRECT

1 guard the vested rights of our Empire.

2 "On or about 9th July in 1937, the Third  
3 Fleet was to practice maneuvers off Penghu Islands,  
4 in cooperation with the Formosa Army. Therefore, I  
5 went to Formosa at the head of the Third Fleet and on  
6 the 7th of July, 1937 was at the harbour of Takao.  
7 I was informed there on the evening of the 17th July  
8 of a conflict between Japan and China at the Marco  
9 Polo Bridge in North China, and although I thought it  
10 might not become serious, according to the duty of the  
11 Third Fleet, I stopped the maneuvers and went back to  
12 Shanghai on 8th, July. The Marco Polo Bridge Inci-  
13 dent was quite an unexpected event to me, in my  
14 capacity of Commander-in-Chief of the Third Fleet.

15 "On this 24th day of April, 1947."

16 I understand there is an error in that, if  
17 your Honor please. That 17th of July should be the  
18 7th.

19 Your witness.

20 BRIGADIER QUILLIAM: May it please the Tri-  
21 bunal, the prosecution does not wish to cross-examine.

22 MR. LOGAN: May the witness be released on  
23 the usual terms?

24 THE PRESIDENT: He is released accordingly.

25 (Whereupon, the witness was excused.)

AMANO

DIRECT

1 MR. LOGAN: May the witness AMANO, Shoichi  
2 be called?

3 - - -

4 S H O I C H I A M A N O, called as a witness on  
5 behalf of the defense, being first duly sworn,  
6 testified through Japanese interpreters as  
7 follows:

8 DIRECT EXAMINATION

9 BY MR. LOGAN:

10 Q Will you please let us have your name and  
11 address?

12 A My name is AMANO, Masakazu; address,  
13 Tochigi, Nasu County, Nasu Oaga-machi, Toyohara.

14 Q General, will you examine defense document  
15 1353 and tell us if that is your affidavit with your  
16 signature contained on it and your seal affixed to  
17 it?

18 A There is no mistake. It is my own. It is  
19 my own writing.

20 Q Are the statements contained in that affida-  
21 vit accurate and true?

22 A Yes.

23 MR. LOGAN: I offer in evidence defense  
24 document 1353.

25 THE PRESIDENT: Brigadier Quilliam.

1           BRIGADIER QUILLIAM: May it please the Tri-  
2 bunal, the prosecution submits that this affidavit  
3 should be rejected in its entirety. It is submit-  
4 ted that even a short examination will show that it  
5 is prolix and that the greater part of it constitutes  
6 unnecessary repetition of evidence that has already  
7 been adduced. The first eight of the fifteen pages  
8 which comprise the affidavit are concerned with the  
9 capture of Hankow; and it is submitted that, having  
10 the evidence of at least ten witnesses on that sub-  
11 ject, the Tribunal has enough evidence.

12           The remainder of the affidavit consists of  
13 detailed explanations of military maneuvers which  
14 really do not add anything to the determination of  
15 the issues in the case. I am not overlooking the  
16 fact that there are one or two of the usual refer-  
17 ences to the love they bear for the enemy, but I  
18 submit the Tribunal has had quite enough evidence on  
19 that point already.

20           In addition, the rule about documents is  
21 broken at page 4 at the very bottom and the whole of  
22 page 5, also on page 10 at paragraph one, and again  
23 in paragraph eleven. For these reasons, it is sub-  
24 mitted that the affidavit should be rejected in its  
25 entirety.



1 THE PRESIDENT: Mr. Logan.

2 MR. LOGAN: In view of the prosecution's  
3 statement that it considers this evidence repetitive,  
4 if they want to concede that we have met the proof  
5 which was offered on the counts in reference to  
6 Hankow, why, we'd be satisfied to stop offering  
7 evidence on that point if the Tribunal will enter  
8 an order saying that evidence from now on will be  
9 cumulative.

10 THE PRESIDENT: The question, whether  
11 evidence is repetitive or cumulative, is primarily  
12 one for the Tribunal itself, although counsel may  
13 well make a submission to that effect. But this  
14 affidavit, like many others, is nearly all husk and  
15 contains very little kernel. That is our objection.  
16 I know it is a Japanese weakness to express them-  
17 selves at great length, and it is difficult to  
18 control it, but the indulgence of this weakness has  
19 a devastating effect on the paper and ink supply.  
20 We have consumed one hundred tons of mimeograph  
21 paper and a vast quantity of ink. We are faced with  
22 an imminent shortage of both, and I have been obliged  
23 to investigate the matter especially within the last  
24 day or so. It is preventing me from circulating  
25 important matter among the Judges. Still, I do

AMANO

DIRECT

1 appreciate the difficulty that American counsel  
2 have in controlling this situation, but I do hope  
3 they will do their very best.

4 MR. LOGAN: With regard to the question of  
5 an order, if the Tribunal please, I have one order  
6 dated July 6, 1944, defense document 923, which I  
7 intend to put into evidence through this witness.

8 THE PRESIDENT: I suggest, with the consent  
9 of all Members of the Tribunal, that you omit these  
10 paragraphs which deal with operations purely and also  
11 paragraphs based on documents not produced or account-  
12 ed for.

13 MR. LOGAN: Of course, I believe the Tribunal  
14 understands that the reason why these operations are  
15 set forth in these affidavits is because of count  
16 47 in the Indictment, because these affidavits not  
17 only go to the atrocity end of the case but also the  
18 manner in which the city was taken. It was taken in  
19 a peaceful manner, and we intend to show that there  
20 was no large slaughter of the inhabitants by the  
21 Japanese Army; it was a peaceful occupation.

22 THE PRESIDENT: If this is read into the  
23 transcript, the waste already involved would be in-  
24 creased tenfold at least with this large circulation  
25 of the transcript.

1           MR. LOGAN: If the Tribunal feels it  
2 would not be of any assistance after it is admitted  
3 in evidence, when we take a recess I'll go through  
4 it and eliminate most of it.

5           THE PRESIDENT: If we are to conserve  
6 paper and ink supplies, it is necessary to do so,  
7 Mr. Logan.

8           We will recess for fifteen minutes.

9           (Whereupon, at 1040, a recess was  
10 taken until 1100, after which the proceed-  
11 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 MR. LOGAN: I have cut that affidavit down  
4 considerably. I think if I read the parts, and read  
5 them slowly, we can follow it.

6 THE PRESIDENT: The objection is upheld, and  
7 is subject to the excision of the matter successfully  
8 objected to.

9 The document is admitted on the usual terms.

10 CLERK OF THE COURT: Defense document 1353  
11 will receive exhibit No. 2564.

12 (Whereupon, the document above re-  
13 ferred to was marked defense exhibit No. 2564  
14 and received in evidence.)

15 MR. LOGAN: I shall now read from defense  
16 document 1353, being exhibit 2564, commencing on page  
17 4, the first paragraph.

18 "In the meantime the 11th Army, defeating  
19 the enemy stationed along the Yangtze River, completely  
20 occupied Wuchang, Hankow and Hanyang on the 25th of  
21 October."

22 Page 6, first paragraph.

23 "The actual progress of our operations, however,  
24 completely turned out contrary to our expectations.  
25 When the main line of defense was destroyed the enemy

AMANO

DIRECT

1 abandoned the defense of Wuchang and Hankow and was  
2 so badly routed as to surge backward westerly along  
3 the southern and northern districts of the Yangtze  
4 River that the Japanese forces were able to make a  
5 triumphal entry into Wuchang and Hankow without  
6 bloodshed.

7 "After the Tapieh Mountain break-through  
8 operations, I was dispatched from Army Headquarters  
9 to lead the operations of the advanced corps surround-  
10 ing the enemy and reached Hankow on November 4th. At  
11 that time the City of Hankow, was, however, crowded  
12 with its residents and above all the traffic of  
13 Europeans, Americans, women and children was frequent  
14 and the shops there were open everywhere carrying on a  
15 brisk business quite contrary to the expected loneli-  
16 ness and dreariness immediately following a siege.  
17 But for the barricade surrounding the French Settlement  
18 and the remains of the Japanese Settlement which was  
19 thoroughly burnt down, it was difficult to discover any  
20 significant indication of war's havoc. It was probably  
21 because Chiang Kai-shek deserted Wuchang and Hankow  
22 prematurely and had retreated without leaving troops  
23 for the immediate guard and defense of Wuchang-Hankow,  
24 because the majority of the Chinese soldiers at the front  
25 had been prompt in fleeing west with but a few passing

AMANO

DIRECT

1 through Wuchang and Hankow that the ravages that prob-  
2 ably would have been committed by the Chinese soldiers  
3 were actually very small, with the result that these  
4 same places escaped both direct and indirect havocs  
5 of war. There were very few residents who had left  
6 their houses previous to the fall of these places  
7 also."

8 Page 11, second paragraph.

9 I might say at this point, if the Tribunal  
10 please, I have the order referred to here and will  
11 offer it later through this witness.

12 "When this operation commenced, the three  
13 principles 'don't burn, don't violate, don't loot,'  
14 which the Commander always advocated, were printed and  
15 distributed among the entire army. The Commander of  
16 the 6th Area Army carried out the campaign to capture  
17 Wuchang and Hankow sometime back as the Commander of  
18 the 11th Army, and this time again he was appointed  
19 Commander of an Area Army in capturing Kweilin and  
20 Liuchow. His past policy in leading his troops has  
21 always been 'defeat Chiang but love his people.' When he  
22 arrived at his new post this time, he made an instruc-  
23 tional announcement that his principle will be to  
24 'defeat America but to love her people,' and spread  
25 this idea thoroughly among his officers and men.



1 "The wishes of the Supreme Commander and the  
2 Commanders of the Area Armies were also reflected in the  
3 mind of every lower commander and I believe that this  
4 operation was executed under strict military discipline  
5 without any violations.

6 "In carrying out the Operation No. 1 what was  
7 most difficult and what hampered the progress was  
8 the already mentioned differences in air power between  
9 our forces and the enemy. This resulted in the  
10 absolute control of air by the enemy and in the stoppage  
11 of long range supply line such as water routes and  
12 railways.

13 "Relative Strength of Our Airpower and  
14 that of the Enemy.

15	Period	At the time of Changsha Campaign	At the time of Hengyang Campaign	At the time of Kweilin Campaign
16	The No. of Sino-planes Amer-at the ican front	590	750	800
17	Air No. Force of Bombers	170	240	300
18	No. of The planes pre- Jap- pared	220	160	150
19	anese Air No. of Force light in bombers China	160	25	25

25 The estimated airstrengths of our forces and

1 that of the enemy were roughly as shown on the forego-  
2 ing table. The ratio of our air force to that of the  
3 enemy at the beginning of the operation grew larger  
4 and larger as the operation progressed, and in addition  
5 as the campaign moved towards southwest the flight  
6 range increased which made the difference in number  
7 of planes seem greater."

8 THE PRESIDENT: Is it necessary to read this,  
9 Mr. Logan? It doesn't seem to have any bearing on  
10 any matter that we have under consideration.

11 MR. LOGAN: It goes into preparation for war,  
12 if the Tribunal please.

13 THE PRESIDENT: Well, it may.

14 MR. LOGAN: "In other words, our air force  
15 was unable to go into action in formation during the  
16 day. Only a few planes went into action at dawn  
17 and dusk. With the marked inferiority of bombers  
18 both in quality and in number, the best our planes  
19 could do was to infiltrate into the enemy territory  
20 at night and bomb his airfields or to carry out sni-  
21 per like single plane attack at night upon strategic  
22 military objectives. Such a tactic of pattern bombing  
23 which destroys a greater part of a city as carried  
24 out by the Sino-American Air Force upon the City of  
25 Changsha around June 25 after our capture of the city

1 and upon the city of Hengyang around August 13, also  
2 after the city fell into our hand, was something  
3 that we could not even dream of undertaking."  
4

5 Page 15, the last page, the first para-  
6 graph:

7 "Also, what was different in this operation  
8 was that in Changsha and Hengyang the citizens who  
9 had returned to the cities suffered casualties and  
10 lost their homes through the indiscriminate bombings  
11 of the enemy planes, as already mentioned before,  
12 and some citizen were much delayed in returning and  
13 rehabilitation.

14 "Since with the Operation No. 1, our armies  
15 came to fight directly with those of the U.S.A.  
16 also on the China Continent, caution was taken to  
17 observe and to prevent violation of international  
18 laws."

19 May the witness be shown defense document  
20 923?

21 (Whereupon, a document was handed  
22 the witness.)  
23  
24  
25



AMANO

DIRECT

1 Q Will you examine defense document 923 and  
2 tell us what that is?

3 A This document was issued in the name of  
4 the Commander of the China Expeditionary Force.  
5 It is instructions to the army -- to the soldiers  
6 in its command with regard to the civilian popula-  
7 tion, and this was published in the newspapers.  
8 Newspapermen were summoned -- invited, and this  
9 was released through them -- in their presence.

10 Q Is that the order that is referred to in  
11 your affidavit as the "Don't burn, Don't violate,  
12 Don't loot" order?

13 THE PRESIDENT: This is from the newspaper.

14 MR. LOGAN: We will explain that.

15 THE PRESIDENT: You can get it in as some-  
16 thing he read at the time and from which he can  
17 refresh his recollection.

18 A It is the details of what -- the concrete  
19 presentation of the three principles mentioned in  
20 my affidavit.

21 BY MR. LOGAN:

22 Q Do you know where that original order  
23 is?  
24

25 A I believe that it has already been burned  
and does not exist.

AMANO "

DIRECT

1 Q Is this a true copy of the order as it was  
2 published in the Asahi Shimbun on July 6, 1944?

3 A I do not know whether at that time it was  
4 published or announced in the newspaper.

5 Q Well, is the document 923, which you have  
6 before you, a true copy of the order which you  
7 referred to in your affidavit?

8 A The contents of course include these.

9 MR. LOGAN: I offer in evidence defense  
10 document 923.

11 THE PRESIDENT: Brigadier Quilliam.

12 BRIGADIER QUILLIAM: May it please the  
13 Tribunal, it is thought that the attention of the  
14 Tribunal should be drawn to the discrepancy in  
15 the dates. There is no doubt the Tribunal has al-  
16 ready observed them.

17 THE PRESIDENT: The discrepancy is between  
18 the 20th of June, 1943, and the 6th of July, 1944,  
19 the date of the newspaper. Obviously this is not  
20 the order. It is a copy of the newspaper, and the  
21 newspaper appears over twelve months after the  
22 order. The witness couldn't refresh his memory  
23 from the newspaper in those circumstances, because  
24 the interval is so great. He could from a newspaper  
25 issued shortly after the event if he then read the

AMANO.

DIRECT-

1 newspaper. Of course the rules of evidence do not  
2 apply in the circumstances. The Tribunal may decide  
3 to admit it, but it is clear that the rules of evi-  
4 dence exclude it, at all events.

5 MR. LOGAN: I understand, if the Tribunal  
6 please --

7 THE PRESIDENT: We would like to know  
8 how the original came to be burned. This document  
9 was issued in China.

10 MR. LOGAN: I will ask him about that,  
11 your Honor, but I wanted to point out it is my  
12 understanding that although the order was issued  
13 twelve months prior, it was not submitted to or  
14 published in the newspaper until a year later, July,  
15 1944.

16 THE PRESIDENT: That doesn't remove the  
17 disability; it merely emphasizes it. However, when,  
18 where, and why was the order burned?

19 BY MR. LOGAN:

20 Q Will you answer that question, General?

21 A The secret military documents were ordered  
22 to be burned by orders from the Central Command  
23 issued to the various areas on about the 14th or 15th  
24 of August, 1945. Therefore, the Expeditionary Force  
25



AMANO

DIRECT

1 in China burned all the documents it had in its  
2 possession.

3 THE PRESIDENT: But why was that secret?  
4 Why should a document to protect the inhabitants  
5 against the Japanese soldiers be a secret document?  
6 And as it is pointedly observed by a Member of the  
7 Tribunal, why was it secret if it was published  
8 in the papers, or why was it published in the  
9 papers if it was secret?

10 THE WITNESS: I believe that regardless of  
11 whether the documents were secret or not they were  
12 all burned together by the army.

13 THE PRESIDENT: Well, that is the first  
14 we have heard of that. The order does not cover  
15 anything more than secret documents if we understood  
16 it rightly -- the order to burn.

17 BY MR. LOGAN:

18 Q General, are the contents of this document  
19 923 exactly the same as the order in so far as they  
20 go -- the same as the order which was issued by the  
21 Supreme Commander in 1943?

22 A I believe that the contents of this per-  
23 tain to the -- at the time of the Hsiangkuei opera-  
24 tions -- were issued at the time of the Hsiangkuei  
25 operations in 1944.

AMANO-

DIRECT

1           Q   Can you tell us why although the order was  
2   dated June 20, 1943, it was not published until  
3   July 6, 1944?

4           A   The contents itself was similar. It was  
5   issued at the time just prior to the start of the  
6   Hsiangkuei operations as instructions to the  
7   soldiers -- officers and men, and it was shown at  
8   that time to the members of the press, to show  
9   them -- to show the intention of the Japanese  
10   forces through the press.

11           THE PRESIDENT: The majority of the  
12   Tribunal overrules the objection and admits the  
13   document.

14           CLERK OF THE COURT: Defense document 923  
15   will receive exhibit No. 2565.

16                   (Whereupon, the document above referred  
17   to was marked defense exhibit 2565 and received  
18   in evidence.)  
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1 MR. LOGAN: I will now read defense document  
2 923, being exhibit 2565:

3 "The Asahi Shimbun

4 "6 July 1944.

5 "(Dispatched on the 5th, from a member of  
6 the information corps from the front lines of Hunan  
7 Province.)

8 "Published with the title, 'Embrace the  
9 People with Great Love.'

10 "To the officers and men:

11 "(First portion omitted)

12 "Those of you who are stationed in the front  
13 lines to execute this holy war should especially em-  
14 brace the people of China with great love, and it is  
15 earnestly hoped that your conduct should not in any  
16 way be shameful in the eyes of heaven and earth.

17 "(A) You must not loot, rape or violate the  
18 innocent multitude of people, and do not burn down  
19 the houses of the people.

20 "(B) Unless for official business you must  
21 not enter any private homes or take off with any  
22 utensils or destroy them.

23 "(C) Do not forget to pay reasonable com-  
24 pensation when you purchase any commodities.

25 "(D) Regard the prevailing currency as though



1 it can be circulated freely as heretofore.

2 "(E) Coolies should not be requisitioned  
3 arbitrarily.

4 "(F) Even those who seem harmful to the  
5 Imperial Army, with the exception of those whose  
6 conduct is directly hostile, should not be punished  
7 arbitrarily, but should be treated according to orders  
8 from superior officers.

9 "(G) Regarding soldiers of the Chungking  
10 Army who surrender by ceasing resistance and bring  
11 'the certificate of voluntary cessation of hostilities,'  
12 they must be reported to superior officers at once and  
13 orders of these officers carried out.

14 "Supreme Commander of Japan.

15 "June 20, 1943."

16 Your witness.

17 THE PRESIDENT: Mr. Comyns Carr.

18 CROSS-EXAMINATION

19 BY MR. COMYNS CARR:

20 Q Mr. Witness, with regard to the last two  
21 paragraphs of the document that has just been read,  
22 what was done by way of arbitrarily punishing those  
23 whose conduct is directly hostile?

24 A Actually because I was not stationed in the  
25 very front lines I am not able -- I don't know of this

AMANO

DIRECT

point.

1 Q But the order excepts particularly those  
2 persons from the injunction not to punish them arbitrarily.

3 A This was done as a preventive measure so  
4 that such things would not occur.

5 THE PRESIDENT: Could it mean that a Japanese  
6 private could shoot anybody whose conduct he regarded  
7 as directly hostile?

8 THE WITNESS: When a person is engaged in  
9 hostile acts I believe he can be dealt with accordingly.

10 Q But what is meant by punishing them arbitrarily?

11 A It means that -- it includes the meaning that  
12 acts of atrocity should not be permitted.

13 Q Well, now with regard to paragraph (G), the  
14 "soldiers of the Cingking Army who surrender by ceas-  
15 ing resistance and bring 'the certificate of voluntary  
16 cessation of hostilities.'" What was this certificate?

17 THE PRESIDENT: Mr. Carr, we are missing all  
18 this.

19 MR. COMYNS CARR: I don't know if your Honor  
20 caught the question. Shall I repeat it?

21 THE PRESIDENT: No. The shorthand writer will.

22 (Whereupon, the last question was  
23 read by the official court reporter.)

24 A I believe this was a piece of paper, postcard  
25

1 size, in which it said that the bearer of this  
2 certificate would be treated, would be given prefer-  
3 ential treatment.

4 Q Then was a soldier of the Chungking Army  
5 who surrendered but did not have a certificate to  
6 be shot without reference to superior officers?

7 A In accordance with general handling of such  
8 matters, regulations for general handling of such  
9 matters, this was carried out. I believe that this  
10 certificate said that those possessing this certificate  
11 would especially be given special treatment or  
12 preferential treatment.

13 Q But is not this document an invitation to  
14 the troops to shoot those who did not have a certificate?

15 A I do not believe so.

16 THE PRESIDENT: Would it be an invitation  
17 to a private soldier, a private Japanese soldier, to  
18 shoot an unarmed civilian who displayed hostility  
19 in some way?

20 THE WITNESS: It does not invite them to do  
21 so. In fact, on the contrary, it tells them that  
22 they should not do so.

23 THE PRESIDENT: That isn't the meaning of  
24 it. However, there is no provision in this order  
25 for punishing those who break the order. That is



AMANO

CROSS

1 noted by one of my colleagues.

2 MR. COMYNS CARR: Your Honor, I am content  
3 to leave it there.

4 MR. LOGAN: May the witness be excused on  
5 the usual terms?

6 THE PRESIDENT: He is excused accordingly.

7 (Whereupon, the witness was excused.)

8  
9 MR. LOGAN: May the witness USHIJIMA,  
10 Sadao be called to the stand.

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USHIJIMA

DIRECT

1 S A D A O U S H I J I M A, called as a witness  
2 on behalf of the defense, being first duly  
3 sworn, testified through Japanese interpreters  
4 as follows:

## DIRECT EXAMINATION

BY MR. LOGAN:

Q What is your name and address?

8 A My address is Tokyo-to, Suginami-ku, Nishi-da-  
9 machi, 1-chome 779. My name is USHIJIMA, Sadao.

10 Q Will you examine defense document No. 1089  
11 and tell us if it is your affidavit with your signa-  
12 ture thereon and your seal affixed thereto?

A Yes, this is mine.

14 Q Are the statements contained in that affidavit  
15 accurate and true?

A Yes.

17 MR. LOGAN: I offer in evidence defense docu-  
18 ment 1089.

THE PRESIDENT: Brigadier Quilliam.

20 BRIGADIER QUILLIAM: May it please the  
21 Tribunal, the prosecution submit that the whole of  
22 paragraph 3 of the affidavit is irrelevant and should  
23 be rejected. It is submitted that the matters covered  
24 by that paragraph are not related to any count in the  
25 Indictment or to any issue involved in the case.

1 THE PRESIDENT: It may be irrelevant, but it  
2 is commendably brief or moderate.

3 Yes, Mr. Logan?

4 MR. LOGAN: It refers to the destruction  
5 of certain towns which the prosecution charged us  
6 with having bombed and pillaged, and so forth.

7 BRIGADIER QUILLIAM: May it please the Tri-  
8 bunal, I think we should say that to the best of our  
9 knowledge none of these towns come within any part of  
10 the prosecution evidence.

11 THE PRESIDENT: You would need a very detailed  
12 knowledge of the geography of China to appreciate  
13 that. Personally, I don't.

14 A majority of the Court sustains the objection  
15 and rejects the document as to paragraph 3 thereof only.

16 CLERK OF THE COURT: Defense document 1089  
17 will receive exhibit No. 2566.

18 (Whereupon, the document above  
19 referred to was marked defense exhibit  
20 No. 2566 and received in evidence with  
21 the exception of paragraph 3 thereof.)

22 MR. LOGAN: I will now read defense document  
23 1089, being exhibit 2566, the affidavit of USHIJIMA,  
24 Sadao. Paragraph 2:

25 "I was appointed Commander of the 18th



USHIJIMA

LIRECT

1 Division in September 1937, (the 12th year of Showa),  
2 and went on active service for the China Incident.  
3 In November of this same year I landed at Hangchow  
4 Bay, and entered the walled city of Hangchow in  
5 December."

6 Paragraph 4, page 4:

7 "Towns entered by the Japanese and found to  
8 be in devastation due to extreme destruction and  
9 pillaging were often the result of outrageous looting  
10 and arson committed by the Chinese forces prior to  
11 the occupation of the place by Japanese forces.  
12 Whenever a battle turned out to be disadvantageous to  
13 them, the Chinese would immediately change into civil-  
14 lian clothes and commit illegal acts by intermingling  
15 with innocent civilians. They would conceal them-  
16 selves and threaten us in the rear. We called them  
17 the guerrilla troops and always found great difficulty  
18 in dealing with them.

19 "Moreover, in various places in China unregis-  
20 tered vagrants without homes banded together calling  
21 themselves destitutes. There were many of these par-  
22 ticular inhabitants who braved danger during battle  
23 to search corpses for money and goods, and broke into  
24 houses, evacuated by the townsfolk who had taken  
25 refuge from the horrors of war, and nonchalantly

1 plundered their property.

2 "Though I went through a great deal of  
3 fighting in various places as division commander, I  
4 used to exert the utmost efforts to enforce strict  
5 military discipline among my men. Therefore I firmly  
6 believe that there was absolutely no one in my command  
7 who committed an illegal act.

8 "Since it was my belief that we couldn't  
9 lose in the war with China, there was no need to worry  
10 about the issue. I frequently gave instructions to  
11 the effect that we should only be mindful of the pride  
12 of our Imperial Army and to act with benevolence and  
13 tenderness towards the Chinese people."

14 I shall omit the last sentence and poem.  
15 Your witness.

16 THE PRESIDENT: Brigadier Quilliam.

17 BRIGADIER QUILLIAM: May it please the Tribunal,  
18 the prosecution does not desire to cross-examine.

19 MR. LOGAN: May the witness be released on  
20 the usual terms?

21 THE PRESIDENT: He is released accordingly.

22 (Whereupon, the witness was excused.)

23 MR. LOGAN: I ask that the witness SANO,  
24 Torata, be called to the witness stand.

25 While we are waiting, if the Tribunal please,

1 I might say in accordance with the instructions  
2 this morning one of my colleagues has gone through  
3 this affidavit and eliminated a great portion of it.

4 - - -

5 T O R A T A S A N O, called as a witness on  
6 behalf of the defense, being first duly  
7 sworn, testified through Japanese interpreters  
8 as follows:

9 DIRECT EXAMINATION

10 BY MR. LOGAN:

11 Q What is your name and address?

12 A My address is Chiba-ken, Kimitsu-gun, Onuki-  
13 machi, Chigusa-Shinden, No. 707. My name is SANO,  
14 Torata.

15 Q Will you examine defense document 1002 and  
16 tell us if that is your affidavit with your signature  
17 on it and your seal affixed thereto?

18 Does the witness know I asked him a question?

19 A Yes, I understood the question. This is my  
20 affidavit.

21 Q Are the statements contained in that affidavit  
22 accurate and true?

23 A It is accurate.

24 MR. LOGAN: Before offering this, if the  
25 Tribunal please, I understand that the prosecution has



S/NO

DIRECT

1 some objection. In view of the fact that we intend  
2 to eliminate much of it, maybe if we could get  
3 together during the lunch period it would save a  
4 great deal of time.

5 THE PRESIDENT: We will adjourn until half-  
6 past one.

7 (Whereupon, at 1155, a recess  
8 was taken.)  
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## AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at  
4 1330.

5 MARSHAL OF THE COURT: The International  
6 Military Tribunal for the Far East is now resumed.

7 - - -

8 T O R A T A S A N O, resumed the stand and testified  
9 through Japanese interpreters as follows:

## DIRECT EXAMINATION

10  
11 THE PRESIDENT: Mr. Logan.

12 MR. LOGAN: I now offer in evidence defense  
13 document No. 1002, that is, the marked portions thereof,  
14 copies of which have been taken up with the prosecu-  
15 tion.

16 THE PRESIDENT: Admitted on the usual terms.

17 CLERK OF THE COURT: Defense document 1002  
18 will receive exhibit No. 2567.

19 (Whereupon, the document above  
20 referred to was marked defense exhibit No. 2567  
21 and received in evidence.)

22 MR. LOGAN: I now read certain extracts from  
23 document 1002, being exhibit No. 2567, which is the  
24 affidavit of SANO, Torata. On page 2, paragraph No. 3:

25 "I took part in the Battle of Hankow, as

SANO

DIRECT

1 Commander of the 23d Infantry Regiment belonging to  
2 the USHIJIMA Detachment of the 6th Division; on  
3 October 26 I entered Hankow as leader of the advance  
4 unit. On November 5 we evacuated the said city."

5 Page 3, fifth line from the bottom: "About  
6 11 p.m. I went back to the advance unit headquarters  
7 in the village of Taokuanchien and looked over the  
8 documents from the higher headquarters concerning  
9 preparations to be made for the intended October  
10 26 occupation of Hankow. These documents had been  
11 dropped on the previous day by an airplane of our  
12 army.

13 "I have no clear recollection of the  
14 description of the papers nor of their number;  
15 however, of special importance were those specifying  
16 the instructions of Commander-in-Chief of the Central  
17 China Army HATA concerning the Hankow occupation and  
18 the matters relating to the arrangements between the  
19 Army and the Navy. The perusal of the documents made  
20 me realize the seriousness of the occasion so forcibly  
21 that I at once made up my mind to act in faithful  
22 obedience to the commander's wish so that the true  
23 worth of the Japanese Army might be proved in the eyes  
24 of the foreign residents. I called Captain CHOSH0,  
25 regimental adjutant, and ordered him to transmit the



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1 Commander-in-Chief's instructions, enjoining him  
2 at the same time to see that they be strictly enforced.  
3 I also ordered my subordinate officers -- battalion  
4 and company commanders -- that before we begin the  
5 occupation march the next day it should be arranged  
6 that a number of soldiers be left about the place  
7 where we had bivouaced to look after the arms, mater-  
8 ials, impedimenta and other things and that the troops  
9 who were to join the march should be those that had  
10 been chosen specially for the purpose.

11 "Orders, notices and other announcements  
12 issued by the Central Army Headquarters were, as a  
13 rule, to pass through the corps, division and brigade  
14 before they were transmitted to the lower formation.  
15 However, in the present case I concluded that owing  
16 to the unexpectedly speedy progress it was feared  
17 that the instructions, if they were transmitted through  
18 the customary channels, would fail to reach the  
19 advance guard of the pursuing unit in time, and so  
20 they were careful enough to deliver the instructions  
21 directly to the advance troops. (As a matter of fact,  
22 when the headquarters of the pursuit unit was at  
23 Huangpo the headquarters of the division was located  
24 in the vicinity of Hsinchu, 60 kilometers to the rear.)  
25 This scrupulous care was specially taken, I thought,

SANO

DIRECT

1 to prevent the subordinates from falling into  
2 mistakes, and I read the instructions with extreme  
3 gratitude."

4 Page 7, sixth line from the top: "Before  
5 beginning to cross the river, Detachment Commander  
6 USHIJIMA told us to faithfully obey the instructions  
7 given by Central Army Commander-in-Chief HATA and our  
8 other superior officers concerning the Hankow occupa-  
9 tion, enjoining us to enhance the glory of the regi-  
10 mental colors."

11 Page 8, first line: "Shortly after one  
12 o'clock the advance party of the unit headquarters  
13 arrived at the northwestern end of the French Conces-  
14 sion, when the 3d Battalion Commander who was at the  
15 head of the unit sent the following report requesting  
16 at the same time instructions as to how to deal with  
17 the situation.

18 "'The Italian Consul-General has communicated  
19 to us to the following effect. How shall I deal with  
20 this?

21 "'The Chinese Army has already withdrawn from  
22 Hankow, but it is rumored that there are mines laid  
23 on certain roads. If the Japanese Army desires it, we  
24 shall be glad to send a guide to lead them along a  
25 safe road on their march to Hankow.'

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1 "The unit commander decided to enter the  
2 city led by the guide whom the Italian Consul-General  
3 had proposed to send, and at the same time to relax  
4 battle preparedness to some extent, adopting rather a  
5 war-and-peace attitude and to conduct a formal entry  
6 ceremony."

7 Page 9, fifth line: "We followed the safe  
8 roads for the most part indicated on the map of  
9 Hankow (attached to these papers);" -- they will be  
10 submitted hereafter, your Honor -- "we passed round  
11 the French concession, taking over on the way the  
12 empty Hankow Peace Preservation Office and other  
13 Chinese rights and interests, and finally found  
14 ourselves a little after 4 o'clock in front of the  
15 Hupeh Telegraph Office in the old British Settlement.

16 "In the British Settlement there was an  
17 area set aside for the sake of distressed people; so  
18 Captain HIGO, Commander of the 9th Company was ordered  
19 to post a guard and post sentries so that no unit,  
20 soldier or attached civilian should enter the area.  
21 The corps headquarters and the 9th Company were  
22 billeted at the Hupeh Telegraph Office and at empty  
23 houses nearby, while the rest of the corps were  
24 billeted at empty houses in the neighborhood of the  
25 Kiangnan Road."



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Page 10, seventh line from the bottom:

1 "As no battle was engaged in on the 26th in Hankow  
2 city or in its vicinity, our unit had no person either  
3 killed or wounded and on the part of the Chinese  
4 troops too there was nobody killed, wounded or taken  
5 prisoner.  
6

7 "Just as the SANO Unit marched on to the  
8 coast road lying in the neighborhood of southwest  
9 edge of the Japanese settlement, on October 26 at  
10 about 1 p.m. and sighted a Japanese naval unit sailing  
11 up the Yangtsekang on board a cruiser-type warship  
12 and, afterwards at about 5 p.m., also a landing party  
13 consisting of about 20 men marching eastwards passing  
14 by the front of the Telegraphic Office of Hupei Prov-  
15 ince. On entering the Hankow city, the unit was followed  
16 by about twenty correspondents from all Japanese  
17 newspapers.

18 "The French Settlement, it was recognized,  
19 had been surrounded with wire entanglements and the  
20 entrance in and exit of its principal roads had been  
21 closely shut off with blocks and guarded by armed  
22 troops. It was obvious also that on the coast road  
23 within the bounds of its settlement, guards had been  
24 placed so as to prevent Japanese troops and civilians  
25 from passing.

SANO

DIRECT

1 "I remember that Major AKAGI, staff officer  
2 despatched by the 6th Division, called on the German  
3 Consulate General on October 20 at about 19 o'clock,  
4 and made request asking them to commence negotiations  
5 with the French Consul General in order to get the  
6 closed coast road opened to the Japanese troops and  
7 civilians for their free passage, but without avail.

8 "Becoming aware of the negotiations  
9 commenced by the officer AKAGI, the SANO unit the  
10 same night issued an order to prohibit units, troops  
11 and attached civilians from entering or going out of  
12 the French Settlement and, moreover, mounted guards  
13 in order to execute this order of prohibition, and  
14 prohibit any entry in the direction of the coast road."

15 Page 14, commencing with the last paragraph:  
16 "The 23rd Infantry Regiment which had been on guard  
17 duty in the former British Settlement were reported  
18 to have been removed, around November 4, to the  
19 Taiyahsien district after handing over the guard duties  
20 to a unit under the 13th Division. No sooner did the  
21 British authorities of the former settlement know of  
22 this change than they made a request to the military  
23 authorities requesting the cancellation of the move  
24 under the plea that an unexpected removal of the guard  
25 so noted for their military discipline and public

SANO

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1 morality and so highly appreciated by the inhabitants  
2 would surely bring great disappointment to the latter.  
3 Responding to the request, the military authorities  
4 gave order to the then 9th guard company (Company  
5 Commander, Captain Higo Morihide) of the Regiment,  
6 to mount guard continuously in Hankow for one month  
7 after the departure of the Regiment's main strength  
8 from the city and towards the early part of December  
9 they arrived at Shihhweihk'u, Tayeh-hsien, site of  
10 camps of the regiment proper. The circumstances at  
11 that time were reported by the Japanese vernacular  
12 press and the excerpt from the 'Miyasaki Shimbun'  
13 hereto attached, even though its contents differs a  
14 little from actual facts is reliable material from  
15 which to judge how the discipline and the morality of  
16 the unit were appreciated and to what degree the  
17 Hankow inhabitants placed reliance upon them.

18 "It was just at the time of the reception  
19 of the Area Army Commander, HATA, on November 3 that  
20 the unit commander SANO marched out to the Custom House  
21 wharf near the former foreign settlement on November 3d,  
22 and as both sides of the road were lined with guard  
23 troops, gendarmerie and others, it was impossible to  
24 discern whether or not the camped troops were also  
25 present on both sides of the route running from



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1 Chungshan Road to the Custom House Road.

2 "At that time I did not sight any troops,  
3 any military personnel or any civilians passing by  
4 the coast road which lies along the lower end of the  
5 Custom House wharf.

6 "As there was no prisoner taken in Hankow  
7 city area by the 23d Infantry Regiment, no incident  
8 came to pass regarding prisoners.

9 "The main force of the Chinese troops, before  
10 October 24, and a part of the remaining troops, in  
11 the evening of October 25, respectively commenced to  
12 retreat so that as of October 26, this retreat was  
13 complete and as there was no battle engaged in between  
14 the Chinese and Japanese troops in the area of Taikia-  
15 shan and Hankow city district there was therefore not  
16 a single Chinese prisoner of war."

17 Page 19, first sentence: "The first photo-  
18 graph attached to this document was taken on a road  
19 near the southwest part of the Japanese settlement,  
20 and shows the headquarters of the SANO Unit about to  
21 march on the road towards the Riverside Road. The  
22 second photograph shows the Unit solemnly passing by  
23 the French Settlement.

24 "Both photographs, which were taken by a  
25 war correspondent and appeared in the homeland newspapers,

1 show us the peaceful and quiet atmosphere of the  
2 marching troops, suggesting that this atmosphere is  
3 quite different from the excited air to be expected  
4 if they were of troops marching through a street  
5 immediately after a fierce battle."

6 Skip a paragraph: "The 23d Infantry  
7 Regiment, rewarded letters of praise during the  
8 China Incident, was strict in its order and discipline,  
9 and perfect in its education and training. This will  
10 be testified to by the fact that there was not even  
11 one soldier who had been punished during my term of  
12 office as the Regimental Commander until October of  
13 the 15th year of Showa (2 years and 5 months), except  
14 one case in which a noncommissioned officer was  
15 punished with light disciplinary confinement owing to  
16 his responsibility for preventing fire, when a  
17 Chinese coolie burnt three cans of gasoline by mis-  
18 handling.

19 "From the above, I can conclude definitely  
20 that the soldiers and officers of the 23d Infantry  
21 Regiment never murdered war prisoners.

22 "I believe that there could never occur any  
23 murder of war prisoners on the Yangtze River fronting  
24 the Riverside Road, inasmuch as I remember, the part  
25 of the said road east of (in the direction of the

SANO

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1 downstream of the Yangtze River) the wharf of  
2 the customs house was closed to Japanese troops  
3 and civilians on 27th and on 28th of October.

4 "Moreover, as on 27th and 28th of  
5 October, the facilities for crossing the Taakuan-  
6 chien River were yet incomplete owing to short-  
7 ness of material for the work, and thereupon the  
8 6th Division ordered the Commander of the 6th  
9 Engineer Regiment to exercise direction and  
10 control over the personnel and materials of the  
11 units which were rushing to enter Hankow City,  
12 the units could not accompany war prisoners.  
13 This fact will also tend to show that there  
14 could not have been any massacre of war prisoners  
15 at that time. The apparatus used by the 6th  
16 Division for crossing the river was light river-  
17 crossing equipment made of plywood for one company  
18 which was in the custody of the river-crossing.  
19 Equipment Company attached to the Division from  
20 the 11th Division. Among these, however, there  
21 were some worn-out boats, so the boats which were  
22 actually used to construct the bridge numbered  
23 only 20. The capacity of the boat-bridge to  
24 transport troops, moreover, was very small, per-  
25 haps 4,000 men on foot a day at the maximum. I



SANO

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1       suppose, on these facts, that by the evening of  
2       October 28th, if it was carried out in good  
3       order, the 45th Infantry Regiment, the second  
4       unit in the Divisions marching order, finished  
5       crossing the river, and the artillery and in-  
6       fantry of the vehicle units and pioneers of every  
7       company were crossing the river. The water units  
8       of the army, though they arrived at Hanshu in  
9       the evening of October 27th, arrived at Hankow  
10      in the afternoon of the next day after the  
11      USHIJIMA Branch Corps entry into Hankow, so it  
12      was impossible for them who were not engaged in  
13      battle in Hankow to get war prisoners there. And  
14      the said units advanced in the rear of the ships  
15      and boats of the navy during the attack at the  
16      Wu-Han area and they did not fight with the  
17      Chinese water units, nor have I heard that they  
18      fought on land. So there was no chance for them  
19      to get war prisoners.

20               "The naval units, too, would necessarily  
21      get no war prisoner because they landed at Hankow  
22      during the evening of October 26th, that is  
23      several hours after the 23rd Infantry Unit entered  
24      the city, moreover their landing place was the same  
25      as that of the latter."

1 suppose, on these facts, that by the evening of  
2 October 28th, if it was carried out in good  
3 order, the 45th Infantry Regiment, the second  
4 unit in the Divisions marching order, finished  
5 crossing the river, and the artillery and in-  
6 fantry of the vehicle units and pioneers of every  
7 company were crossing the river. The water units  
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12 was impossible for them who were not engaged in  
13 battle in Hankow to get war prisoners there. And  
14 the said units advanced in the rear of the ships  
15 and boats of the navy during the attack at the  
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17 Chinese water units, nor have I heard that they  
18 fought on land. So there was no chance for them  
19 to get war prisoners.

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21 get no war prisoner because they landed at Hankow  
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23 several hours after the 23rd Infantry Unit entered  
24 the city, moreover their landing place was the same  
25 as that of the latter."

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2       October 28th, if it was carried out in good  
3       order, the 45th Infantry Regiment, the second  
4       unit in the Divisions marching order, finished  
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6       fantry of the vehicle units and pioneers of every  
7       company were crossing the river. The water units  
8       of the army, though they arrived at Hanshu in  
9       the evening of October 27th, arrived at Hankow  
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11      USHIJIMA Branch Corps entry into Hankow, so it  
12      was impossible for them who were not engaged in  
13      battle in Hankow to get war prisoners there. And  
14      the said units advanced in the rear of the ships  
15      and boats of the navy during the attack at the  
16      Wu-Han area and they did not fight with the  
17      Chinese water units, nor have I heard that they  
18      fought on land. So there was no chance for them  
19      to get war prisoners.

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21      get no war prisoner because they landed at Hankow  
22      during the evening of October 26th, that is  
23      several hours after the 23rd Infantry Unit entered  
24      the city, moreover their landing place was the same  
25      as that of the latter."



SANO

DIRECT

1 I ask that the witness be shown defense  
2 document No. 999.

3 Q Will you tell us ~~what~~ that is, General?

4 A That chart is a photograph of a unit of  
5 the 23rd Infantry Regiment marching alongside the  
6 French Concession -- crossing the bridge in the  
7 French Concession. It was taken at that time.

8 Q And that is the photograph mentioned in  
9 your affidavit?

10 A Yes.

11 MR. LOGAN: I offer defense document 999  
12 in evidence.

13 THE PRESIDENT: Admitted on the usual  
14 terms.

15 CLERK OF THE COURT: Defense document  
16 No. 999 will receive exhibit No. 2568.

17 (Whereupon, the document above  
18 referred to was marked defense exhibit  
19 No. 2568 and received in evidence.)

20 MR. LOGAN: I ask that the witness be  
21 shown defense document 1000.

22 Q Will you examine that and tell us what  
23 that photograph is?

24 A This photograph is a picture showing the  
25 headquarters unit of the SANO Regiment with the

1 Regimental Commander heading the group marching  
2 in the Japanese Concession of Hankow in the South-  
3 western part of the city and about to enter a road  
4 skirting or along the Yangtze River.

5 Q Is that you leading the troops, General?

6 A Yes, I am leading this unit.

7 Q Is that the same photograph mentioned  
8 in your affidavit?

9 A Yes.

10 MR. LOGAN: I offer in evidence defense  
11 document 1000. I just offer the photograph and  
12 not the description of it attached to it.

13 THE PRESIDENT: Admitted on the usual  
14 terms.

15 CLERK OF THE COURT: Defense document  
16 1000 will receive exhibit No. 2569.

17 (Whereupon, the document above  
18 referred to was marked defense exhibit  
19 No. 2569 and received in evidence.)

20 MR. LOGAN: May the witness be shown  
21 defense document 1001.

22 Q Will you examine that document and tell  
23 us what it is, General?

24 A I shall state what the explanation  
25 written on the upper right-hand corner of this map is.

SANO

DIRECT

1 Q I had rather just have you tell us what  
2 the map is, please.

3 A It is a general map showing the various  
4 sectors or divisions of Hankow, city of Hankow.

5 Q And it contains a writing on it which  
6 shows the position of the troops on various dates;  
7 is that so?

8 A Yes, it shows the various routes of  
9 entry of the various units and their disposition.

10 Q And that is the march referred to in your  
11 affidavit?

12 A Yes.

13 MR. LOGAN: I offer in evidence defense  
14 document 1001.

15 THE PRESIDENT: Admitted on the usual  
16 terms.

17 CLERK OF THE COURT: Defense document  
18 1001 will receive exhibit No. 2570.

19 (Whereupon, the document above  
20 referred to was marked defense exhibit  
21 No. 2570 and received in evidence.)

22 MR. LOGAN: I shall not take the time of  
23 the Court to read it. Mr. Roberts will now present  
24 some evidence.

25 There will be no cross-examination. May



the witness be excused on the usual terms.

1 THE PRESIDENT: He is released on the  
2 usual terms.

3 (Whereupon, the witness was  
4 excused.)

5 THE PRESIDENT: Mr. Roberts.

6 MR. ROBERTS: Mr. President, on Monday,  
7 May 5, I tendered in evidence defense document  
8 1053, which at that time was objected to by  
9 Brigadier Nolan on the ground as stated in the  
10 record, page 21,420, that "I have no volume from  
11 which I could check the accuracy of this excerpt."  
12 It is an announcement concerning an Anglo-Japanese  
13 Conference recognizing the situation in China on  
14 behalf of the British Government and is an official  
15 statement by the Prime Minister made in the House of  
16 Commons. I have here the official excerpt from the  
17 official report, 5th series, Parliamentary Debates  
18 in the House of Commons, which I have previously  
19 shown to the prosecutor for the purpose of com-  
20 parison with defense document No. 1053.

21 THE PRESIDENT: What page of the official  
22 report?

23 MR. ROBERTS: On page 994.

24 In view thereof, I desire at this time  
25

1 to read the statement of the British Prime Minis-  
2 ter directly from the report.

3 THE PRESIDENT: Mr. Comyns Carr.

4 MR. COMYNS CARR: Your Honor, we have  
5 no objection to that being done, but the extract  
6 steps too soon to be clear. If my friend will  
7 read over the page down to the point that I am  
8 showing to him we should have no objection.

9 MR. ROBERTS: I have no objection.

10 THE PRESIDENT: Have you copies for  
11 the Judges?

12 MR. ROBERTS: I understood that copies  
13 were being sent back, but I see the Clerk doesn't  
14 seem to have them yet. It is one paragraph, the  
15 whole statement.

16 THE PRESIDENT: Well, you may read it.  
17 If any Judge desires to get his copy beforehand  
18 he can intimate so.

19 MR. COMYNS CARR: Your Honor, as the  
20 copies when they do arrive will be incomplete in  
21 view of the agreement we have just made, I suggest  
22 that it would be more convenient if my friend read  
23 it into the record straight from the Parliamentary  
24 report.

25 THE PRESIDENT: We thought he intended

1 doing that.

2 MR. ROBERTS: Yes. I read on page 994  
3 from the official report, 5th series, Parliamen-  
4 tary Debates, House of Commons.

5 THE PRESIDENT: What is the date?

6 MR. ROBERTS: Monday, 24 July 1939.  
7 Statement of the Prime Minister, Mr. Chamberlain.

8 "In order to clear the way for the  
9 Tientsin discussion, his Majesty's Government  
10 have accordingly agreed upon the following formula  
11 with the Japanese Government" --

12 THE PRESIDENT: Haven't the Language  
13 Section a copy of what you are about to read?

14 THE MONITOR: No, sir.

15 MR. ROBERTS: In view of the fact that  
16 I am reading directly from the volume, they do not.

17 Read from No. 1053, if you have it. It  
18 is the same thing.

19 THE MONITOR: All right, sir. On what  
20 page and what line, sir?

21 MR. ROBERTS: Beginning at the second  
22 paragraph, defense document 1053.

23 THE MONITOR: All right, sir.  
24  
25



1 MR. ROBERTS (Reading): "His Majesty's Govern-  
2 ment in the United Kingdom fully recognizes the  
3 actual situation in China where hostilities on a  
4 large scale are in progress and note that, as long  
5 as that state of affairs continues to exist, the  
6 Japanese forces in China have special requirements  
7 for the purpose of safeguarding their own security  
8 and maintaining public order in regions under their  
9 control, and that they have to suppress or remove  
10 any such acts or causes as will obstruct them or  
11 benefit their enemy.

12 "His Majesty's Government has no intention  
13 of countenancing any act or measures prejudicial to  
14 the attainment of the above-mentioned objection by  
15 Japanese forces, and they will take this opportunity  
16 to confirm their policy in this respect by making it  
17 plain to British authorities and British nationals in  
18 China that they should refrain from such acts and  
19 measures."

20 Then the question by Mr. Arthur Henderson  
21 that Mr. Carr has asked to be read: "Do these con-  
22 tentions, in effect, constitute a de facto recogni-  
23 tion of Japanese sovereignty in respect of those  
24 parts of Chinese territories which are now under the  
25 control of the Japanese armed forces?"

1 The Prime Minister: "No."

2 THE MONITOR: Mr. Roberts, we do not have  
3 the document, sir. Will the court reporter repeat  
4 the question by Mr. Henderson slowly?

5 (Whereupon, the question referred  
6 to was read by the official court reporter.)

7 THE PRESIDENT: Mr. Tavenner.

8 MR. TAVENNER: If it pleases the Tribunal,  
9 the prosecution desires at this time, with the Tri-  
10 bunal's permission, to present a matter relating to  
11 one of the prosecution's witnesses. Simultaneous  
12 interpretation has been arranged.

13 THE PRESIDENT: What is the matter?

14 MR. TAVENNER: It will be recalled that on  
15 August 7th, the affidavit of Colonel David D. Bar-  
16 rett, General Staff Corps, U. S. Army, Acting Mil-  
17 itary Attache at Nanking, was introduced in evidence  
18 by the prosecution, exhibit 249, page 3,355 of the  
19 transcript.

20 Colonel Barrett was brought to Tokyo as a  
21 witness but was required to return to China before  
22 being called. With great difficulty we obtained  
23 his presence a second time, but again official du-  
24 ties of an urgent character required his return to  
25 his post of duty before testifying.

1 Under these circumstances, his affidavit  
2 was tendered in evidence. The Tribunal admitted it  
3 in evidence, page 3,352 of the transcript, on the  
4 terms that the deponent may be called later if neces-  
5 sary or desirable, and also that he may be subject  
6 to interrogation on the affidavit by the defense if  
7 he is not called. After the affidavit was read, the  
8 Tribunal announced, page 3,365 of the transcript,  
9 that the affidavit is in evidence but that no action  
10 would be taken on it until the deponent is produced  
11 for cross-examination.

12 "The situation since that time has been as  
13 follows: In October, Colonel Barrett was sent to  
14 Manila to attend an important Intelligence conference,  
15 and on December 12th he was sent on official business  
16 to the United States and did not return to China  
17 until April 15.

18 Within ten days after his return Army Head-  
19 quarters in China reached him by radio, in response  
20 to which, after obtaining the necessary authority  
21 from Washington, he came directly to Tokyo, arriving  
22 here yesterday afternoon.

23 We are under obligation to release Colonel  
24 Barrett within a week or ten days. It is respect-  
25 fully requested that the Tribunal, taking into con-



1 sideration the convenience of defense counsel, fix  
2 an early date, preferably Monday, May 12, for cross-  
3 examination of the witness, if cross-examination is  
4 desired.

5 THE PRESIDENT: We would like to hear the  
6 defense.

7 MR. LOGAN: May we have an opportunity to  
8 examine the record and report back on this tomorrow  
9 morning, please?

10 THE PRESIDENT: We will give our decision  
11 after we have heard the defense tomorrow morning.

12 Mr. Freeman.

13 MR. FREEMAN: If the Tribunal please, the  
14 defense next presents to the Tribunal the affidavit  
15 of SAKURAI, Tokutaro which has to do with the ab-  
16 sence of atrocities in the area of North China in  
17 which he commanded Japanese troops.

18 If the Tribunal pleases, this witness has  
19 not been able to reach here, and the prosecution  
20 has agreed that I may read the affidavit if the  
21 Court will accept it.

22 THE PRESIDENT: The prosecution are not ob-  
23 jecting to this affidavit being tendered in evidence?

24 MR. TAVENNER: We have not proposed to cross-  
25 examine, your Honor, and that's the reason we are not

1 objecting.

2 THE PRESIDENT: Well, there seems to be no  
3 need to call the deponent.

4 You tender the affidavit?

5 MR. FREEMAN: Yes, I tender it. It is  
6 document 1342.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document 1342  
9 will receive exhibit No. 2571.

10 (Whereupon, the document above re-  
11 ferred to was marked defense exhibit No.  
12 2571 and received in evidence.)

13 MR. FREEMAN: I now read defense document  
14 1342, being exhibit 2571:

15 "Deponent: SAKURAI, Tokutaro  
16 Having first duly sworn on oath as an attached sheet  
17 and in accordance with the procedure followed in my  
18 country I hereby depose as follows:

19 "I was born at No. 462-3, Haruyoshi,  
20 Fukuoka City, and am at the age of 51. I am now  
21 living at Tsuno-machi, Koyu-Gun, Miyazaki Prefecture,  
22 and was formerly a soldier.

23 "From August 1st of 1942 till July 31st of  
24 1943, I stayed at Satzo, Kianglingsien, while hold-  
25 ing the post of Commander of the 65th Infantry Regi-

1 ment of the 13th Division. At that time the Govern-  
2 or of Kianglingsien was a man called Chang Tsu-to,  
3 who conducted all administration concerning that  
4 area. The Army was not directly concerned with  
5 this. I was therefore told nothing about troubles  
6 among the Chinese people. As to troubles which had  
7 occurred between the Japanese troops and them, I  
8 received information from the Governor, and passed  
9 fair judgments in those cases.

10 "If our soldiers committed any unlawful  
11 deeds, they were sternly punished by the Gendarmerie  
12 according to military criminal law, and damage, if  
13 done to the people, was to be repaid through the  
14 Governor. Obeying orders of my superior, I never  
15 failed to treat the people benevolently, and endeav-  
16 oured to maintain peace and order and to encourage  
17 industry. Therefore, no treacherous deed was ever  
18 committed.

19 "While in my post, I heard nothing concern-  
20 ing the affair of platoon commander NAKAGAWA,  
21 Seichiro under my command burning a house and steal-  
22 ing a cow at Lingkwan on March 5, 1943.

23 "With interested persons such as the chief-  
24 priest of the Changhua Temple, an old one at Shatzo,  
25 the Governor, and others, I built a mass tower for



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1 the dead in a park and held a mass for the souls of  
2 the Japanese and Chinese soldiers and of the people.  
3 I never heard these interested persons speak of any  
4 unlawful deeds committed by the Japanese troops.

5 "21st day of April, 1947."

6 I next present to the Tribunal the witness  
7 YOKOYAMA, Isamu who will testify to the absence of  
8 atrocities of Changsha, Hengyang, Kueilin and Liu-  
9 chow. This evidence relates to counts 48, 49 and  
10 50 in the Indictment.

11 - - -

12 I S A M U Y O K O Y A M A, called as a witness on  
13 behalf of the defense, being first duly sworn,  
14 testified through Japanese interpreters as  
15 follows:

16 DIRECT EXAMINATION

17 BY MR. FREEMAN:

18 Q Will you give your name, please?

19 A My name is YOKOYAMA, Isamu.

20 Q Will you please examine document 875 and  
21 see if that is your affidavit and, if so, if its  
22 contents are true?

23 (Whereupon, a document was handed  
24 to the witness.)

25 THE PRESIDENT: Surely he is not going to

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1 read it all.

2 A Very well.

3 Q Is that your affidavit?

4 A Yes.

5 MR. FREEMAN: If the Tribunal please, I'll  
6 read it.

7 THE PRESIDENT: Is it correct? Is that  
8 affidavit correct?

9 THE WITNESS: There is no mistake.

10 THE PRESIDENT: Well, you had better tender  
11 it before you read it, Mr. Freeman.

12 MR. FREEMAN: I tender in evidence document  
13 875.

14 THE PRESIDENT: Admitted on the usual terms.

15 CLERK OF THE COURT: Defense document 875  
16 will receive exhibit No. 2572.

17 (Whereupon, the document above re-  
18 ferred to was marked defense exhibit No.  
19 2572 and received in evidence.)  
20  
21  
22  
23  
24  
25

1 MR. FREEMAN: I will read defense document  
2 875, exhibit 2572, beginning with the second para-  
3 graph:

4 "My career is as follows:

5 "Graduated from the Army Academy in De-  
6 cember 1908 (the 42nd year of Meiji).

7 "Graduated from the Army Staff College  
8 in December 1914 (the 4th year of Taisho).

9 "Commissioned Major-General in March 1936  
10 (the 11th year of Showa).

11 "Commissioned Lieutenant-General in August  
12 1939 (the 14th year of Showa).

13 "Appointed the Commander of the 1st Division.

14 "Served as the Commander of the 11th Army  
15 Corps from December 1942 to December 1944.

16 "Served as the Commander of the Western Dis-  
17 trict Army Corps from December 1944 to October 1945.

18 "I was the commander of the 11th Army Corps  
19 under Supreme Commander HATA of the China Expedition-  
20 ary Forces from December 1942 to December 1944. The  
21 duty of my Army Corps was to launch an attack and  
22 occupy Changsha, Hengyang, Kueilin and Liuchow,  
23 under the command of Supreme Commander HATA.

24 "First I shall explain the Changsha military  
25 operation.



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1 "In the Changsha military operation three  
2 divisions under my command attacked Changsha from  
3 both banks of the River Suchiang in the middle of  
4 June 1944, and succeeded first in occupying the  
5 fort on the western side of the river; as a result  
6 of which we could capture Changsha in only two days  
7 fighting. As we engaged in no fighting within the  
8 city houses remained undamaged, although most of  
9 the citizens had taken refuge elsewhere and only  
10 few of them remained there. Entering the city im-  
11 mediately after its occupation, I personally in-  
12 spected the conditions of the city and found that  
13 no damage had been caused to the houses and other  
14 buildings. In order to avoid bombings by the enemy  
15 and the confusion of the city, I ordered my troops  
16 not to enter the city. But after our occupation of  
17 Changsha American airplanes bombed the city every  
18 day and finally turned the whole city into ashes.  
19 So far as our treatment ~~of~~ attitude toward the  
20 people in Changsha were concerned, I took into con-  
21 sideration the Order of "Love the people" of Supreme  
22 Commander HATA, which was in perfect accord with my  
23 own principle, therefore I practiced it so thoroughly  
24 that some 6,000 people who had taken refuge returned  
25 before long. While the Japanese forces supplied the

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1 people with food and treated them kindly, .  
2 American airplanes went on destroying and burning  
3 the people's houses in their bombings which caused  
4 the Chinese citizens to bear a grudge against  
5 American forces instead of the Japanese troops.  
6 The big hospital built by Americans was the only  
7 building which escaped from American bombing. One  
8 of our divisions put the hospital under its custody  
9 and it remained undamaged throughout.

10 "Next, I shall explain the Hengyang military  
11 operation. Three divisions were employed again in  
12 the attack on Hengyang and airfield on the opposite  
13 bank of the river was soon captured. But around  
14 the walls of Hengyang Cheng there were so many  
15 marshes hampering the supply our ammunition. More-  
16 over, as the Japanese airplanes were few in number  
17 and the bombing by American air forces was furious,  
18 we fought under a great difficulty. Our attack con-  
19 tinued for over a week, yet we could not occupy the  
20 city, therefore, I myself went out to the front line  
21 to encourage the troops, who finally succeeded to  
22 capture it.

23 "We first exhorted the enemy to surrender.  
24 It was later discovered that officers in command  
25 of enemy troops had intention to surrender as soon

1 as practicable, but their subordinates were opposed  
2 to it and made the surrender very difficult. After  
3 they surrendered we immediately put our principle  
4 of 'Love the people' into practice and left the  
5 Corps commander, the division commanders and all  
6 others unpunished. Moreover, treated them ex-  
7 actly as they had been entitled prior to their sur-  
8 render, in addition to giving them salaries and  
9 houses to live in. In other words, we left them  
10 completely free with no restrictions whatever.  
11 Deeply appreciating this treatment they served  
12 and cooperated with us to a great extent. Some-  
13 times our division commanders dined with them to  
14 enhance mutual understanding. In Henyang our forces  
15 did not advance into the city, but many people were  
16 killed in town due to the bombing by American air-  
17 planes. Here too, the citizens had spite against  
18 the American forces.

19 "Next, I shall explain the Kueilin military  
20 operation. Kueilin is surrounded by rockymountain  
21 and is famous for its impregnability. We employed  
22 four divisions for the attack of this city. The  
23 division which advanced from the eastern side of  
24 the river was lucky enough to succeed in crossing  
25 the river, which led to the capture on the 10th of



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1 November. In this operation there was no protro-  
2 tracted confront between the enemy and us as was  
3 witnessed in the Henyang occupation. The Chinese  
4 forces as well as the American air forces had ran  
5 away before our seige was completed, leaving no  
6 prisoners of war behind. However, the city of  
7 Kueilin had been subject to considerable damage  
8 and many houses were either destroyed or burnt down.  
9 I can declare positively that this destruction and  
10 burning down of buildings within the city were  
11 carried out deliberately by the enemy forces  
12 for the purpose of obtaining convenient gun em-  
13 placements to ambush our troops.

14 "Next, I shall explain the Liuchow military  
15 operation. I ordered two divisions to attack Lui-  
16 chow simultaneously with the attack on Kueilin.  
17 The city was occupied easily on the 19th of November.  
18 The enemy in Liuchow ran away at the same time when  
19 the enemy in Kueilin escaped and no American air-  
20 planes participated in this battle. In this oper-  
21 ation the 23rd Army Corps under the command of  
22 Lieutenant-General TANAKA, in Kwantung, cooperated  
23 with us.  
24

25 "In the operations above mentioned I  
strictly ordered my officers and men to observe

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1 the fundamental rules of 'Do not commit crimes',  
2 'Do not plunder', 'Do not burn houses', and 'Do  
3 not kill', based upon the principle of 'Love the  
4 people'. In procuring necessary materials we  
5 paid the citizens the price they asked for, and  
6 when we were obliged to use the materials left  
7 in the house in which nobody was found, I ordered  
8 my men to leave there appropriate sum for same.  
9 These were so strictly enforced that peace and  
10 order could be maintained very satisfactorily.  
11 Upon receipt of instructions on several occasions  
12 from Supreme Commander HATA concerning principle  
13 of 'Love the people' I did everything in my power  
14 to see to it that the said principle be observed  
15 faithfully. For this purpose, I issued instructions  
16 several times to my officers and men in writing or  
17 personally gave them to division commanders and  
18 chiefs of staff under my command at their meetings.  
19 The splendid result witnessed during the operations  
20 above mentioned are entirely due to the foregoing  
21 efforts. Prior to this, Prince MIKASA was at-  
22 tached to the General Headquarters to whom His  
23 Majesty, the Emperor, sent his personal letter,  
24 which contained His Majesty's own words to the fol-  
25 lowing effect: 'As this war is a holy war, you must

1 love the enemy'. The purport of this letter  
2 perverted into the minds of all the officers and  
3 men. Any one of them who failed to observe it was  
4 court-martialed and punished most severely.

5 "In order to supply food to the citizens  
6 provisions for military use were distributed di-  
7 rectly to them and markets were opened as that  
8 they might get commodities easily. Since the  
9 people fully understood that the Japanese army  
10 did not plunder them of their goods they came back  
11 to the city and more goods began to come into  
12 markets, much to the relief and joy of the people."

13 I will skip paragraph 9.

14 "10. The reason why the 11th Army Corps  
15 was the only operation army under the command of  
16 General HATA was because it was strong in fighting.  
17 However, its fundamental principal duty was to pre-  
18 serve peace and order and offensive operations by  
19 it were carried out only when it was ordered to  
20 do so.

21 "As to prisoners of war, some of them were  
22 duly interned in the P.O.W. camps, and others were  
23 allowed either to go home, in accordance with their  
24 respective free wishes so long as they kept away  
25 from hostile acts or were given jobs for their



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1 living if they wanted to work. For instance, they  
2 were employed in repairing railways as in con-  
3 structing roads. In such cases, they were given  
4 reasonable wages besides food and clothes, which  
5 made them feel very happy. Some Chinese division-  
6 commanders who were captured prisoners of war were  
7 allowed to take charge of maintaining peace and  
8 order in the area which had formerly been under  
9 their respective control. The entire responsibi-  
10 lity for the maintenance of peace and order were  
11 undertaken by such persons and the Renovation  
12 Government at Nanking.

13 "12. The chief of staff of the 11th Army  
14 Corps was Major-General NAKAYAMA, Sadataka, who  
15 was later appointed the chief of staff to General  
16 OKABE at Hankow. I have absolutely no knowledge  
17 about opium, Hupei Gowns rice whereas Hopei pro-  
18 duces cotton and opium in the regions under my  
19 occupation. In short, the army under my command  
20 applied itself entirely to pure military operations  
21 from beginning to end, during which time the pre-  
22 servation of peace and order, I firmly believe,  
23 was at its best.

24 "At Sygama Prison, on this 6th day of  
25 December 1946."

1 JUDGE HSIANG: May it please the Tribunal,  
2 the prosecution does not propose to cross-examine  
3 this witness but desires to point out the prosecu-  
4 tion's documentary evidence already introduced.

5 Evidence on matters testified to by this  
6 witness and also by the deponents of affidavits marked  
7 as Court exhibits 2557 and 2571 -- the prosecution  
8 evidence in question appears in the transcript as  
9 exhibit 342, pages 4,612 to 4,613;

10 Exhibits 352 to 359, pages 4,651 to 4,655;  
11 And exhibits 331 to 340, pages 4,609 to  
12 4,610.

13 MR. FREEMAN: May the witness be released  
14 on the usual terms?

15 THE PRESIDENT: He is released accordingly.

16 (Whereupon, the witness was ex-  
17 cused.)

18 - - -

19 MR. FREEMAN: Defense next offers in evidence  
20 document No. 350 which contains instructions of  
21 Chiang Kai-shek at the opening of Liuchow Military  
22 Conference in 1940. We will read only beginning with  
23 Section 8, page 2 and ending on page 4, first para-  
24 graph.  
25

THE PRESIDENT: Brigadier Quilliam.

1 JUDGE HSIANG: May it please the Tribunal,  
2 the prosecution does not propose to cross-examine  
3 this witness but desires to point out the prosecu-  
4 tion's documentary evidence already introduced.

5 Evidence on matters testified to by this  
6 witness and also by the deponents of affidavits marked  
7 as Court exhibits 2557 and 2571 -- the prosecution  
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10 Exhibits 352 to 359, pages 4,651 to 4,655;  
11 And exhibits 331 to 340, pages 4,609 to  
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21 Chiang Kai-shek at the opening of Liuchow Military  
22 Conference in 1940. We will read only beginning with  
23 Section 8, page 2 and ending on page 4, first para-  
24 graph.

25 THE PRESIDENT: Brigadier Quilliam.



1 BRIGADIER QUILLIAM: May it please the Tri-  
2 bunal, the prosecution objects to the introduction of  
3 this document. It is contained in the publications  
4 compiled by the Japanese Headquarters, but there is  
5 no real indication as to the source and authenticity  
6 of ~~the~~ material in the document.

7 The point is, if it please your Honor, that  
8 the contents of the document appear to be references  
9 to Chinese documents and speeches made by Chinese  
10 leaders.

11 THE PRESIDENT: The certificate says the  
12 source is in Tokyo.

13 BRIGADIER QUILLIAM: But, even if the whole  
14 of the contents are accepted as true, it is submit-  
15 ted that they are entirely irrelevant to the case.  
16 The prosecution has studied the document carefully,  
17 and we regret we are unable to even suggest what  
18 application it can be suggested it has.

19 THE PRESIDENT: No specific individual takes  
20 the responsibility for this. He might be the spokes-  
21 man of the Foreign Office or anybody. But it is sup-  
22 posed to be compiled by the Military Department of  
23 the Imperial General Staff Headquarters.

24 MR. FREEMAN: If the Tribunal pleases, the  
25 certificate states that it is compiled by the Mili-

1 tary Department of the General Staff. And, as I  
2 stated in offering the document, I intended only to  
3 read beginning with paragraph eight on page 2 to  
4 the end of that paragraph.

5 THE PRESIDENT: How is it relevant, Mr.  
6 Freeman?

7 MR. FREEMAN: This particular paragraph  
8 relates to Chiang Kai-shek's comments on a captured  
9 enemy document, that being the Japanese, relative  
10 to the treatment of prisoners of war.

11 THE PRESIDENT: What is the purpose of  
12 tendering this document? That is what we want to  
13 know.

14 MR. FREEMAN: The purpose is to show that  
15 even the Chinese used the Japanese as an example  
16 to train their soldiers in the treatment of the  
17 wounded and the dead and the captured. I only in-  
18 tended to read one paragraph.

19 THE PRESIDENT: I will have to take the  
20 decision of the Members of the Court.

21 By a majority, the Court upholds the ob-  
22 jection and rejects the document.

23 We will recess now for fifteen minutes.

24 (Whereupon, at 1445, a recess was  
25 taken until 1500, after which the proceed-  
ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International  
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Freeman.

4 MR. FREEMAN: The defense next presents  
5 document No. 1012, which is an affidavit by ARUGA,  
6 Kazunaga that has to do with hostilities in the  
7 Kuailin-Liuchow operations. This is another affi-  
8 davit where the witness is not present and to which  
9 the prosecution raises no objection to its being  
10 read.

11 THE PRESIDENT: Judge Hsiang.

12 JUDGE HSIANG: The prosecution offers no  
13 objections.

14 THE PRESIDENT: It is admitted on the usual  
15 terms.

16 CLERK OF THE COURT: Defense document 1012  
17 will receive exhibit 2573.

18 (Whereupon, the document above referred  
19 to was marked defense exhibit 2573 and received  
20 in evidence.)

21 MR. FREEMAN: (Reading) "Deponent:  
22 ARUGA, Kazunaga.

23 "Having first duly sworn an oath as on  
24 attached sheet and in accordance with the procedure  
25 followed in my country, I hereby depose as follows:



1 "1. I was born at my permanent domicile,  
2 No. 1927 Marubayashi, Yamato-mura, Higashi-yamanashi-  
3 gun, Yamanashi Prefecture.

4 "My present address is c/o MIMORI Shukichi,  
5 No. 18 Yuda-machi, Kofu-shi, Yamanashi Prefecture.

6 "2. My career is roughly as follows:

7 "On January 15, 18th year of Showa (1943),  
8 I was enlisted, as an air-guard, in Unit No. 4358  
9 of the Manchurian Army, stationed in Tungning-hsien,  
10 Mutanchiang Province, Manchukuo. I was transferred,  
11 on January 19 of the same year, to Unit No. 595,  
12 stationed in Hing-lung, Mutanchiang, and was charged  
13 with the air-defense of the place until March 14,  
14 19th year of Showa (1944). On the following March  
15 15, my unit moved to North China to take part in the  
16 Honan operations. When the Honan operations ended,  
17 we came down through Middle China to South China and  
18 joined the Kueilin-Liuchow operations. In March,  
19 20th year of Showa (1945), we started for Hankow,  
20 but while we were still on our way, the war came to  
21 a close. My military rank at the termination of  
22 the war was Lance-Corporal (with a certificate of  
23 fitness for a N.C.O.).  
24

25 "3. Before the opening of the Honan and  
the Kueilin-Liuchow operations, we soldiers, who

1 were going to be engaged in them, were repeatedly  
2 and strictly instructed by our seniors about the  
3 up-keep of our discipline and morale toward the  
4 general Chinese people. Those instructions emphasized  
5 the four items, "Do not burn, kill, plunder, or  
6 violate." These warnings were faithfully followed  
7 by every one of us, soldiers.

8 "The soldiers of our unit warned one another  
9 and strictly observed these four points. I never  
10 saw our soldiers commit any criminal acts toward  
11 the Chinese populace during the operations.

12 "Along the advance of the Japanese army,  
13 the native people, who had once fled from us, came  
14 back to their old abodes in a few days. They soon  
15 became attached to the Japanese soldiers and never  
16 showed any hostile attitude against us.

17 "Above all, the women, who ought to have  
18 been most afraid of the Japanese soldiers, did not  
19 show any sign of fear or anxiety, and often helped  
20 us when we were stuck with any difficult task.  
21 The children, when they once became friends with us,  
22 grew so attached to us that, when we were leaving  
23 for the front, they even cried over our departure.  
24 The people were quite willing to bring and lend us  
25 things, which we badly needed, so we Japanese soldiers,

1 too, accommodated them with what they truly needed.  
2 Sometimes we shared with them even what were indis-  
3 pensable for ourselves.

4 "During the Kueilin-Liuchow operations I  
5 once went to a native's house to borrow a pail, but  
6 finding nobody in the house, I took one without ask-  
7 ing. But, thinking it not right to borrow a thing  
8 without asking, I wrote my name and the name of our  
9 unit on a slip of paper and left it with two cakes  
10 of washing soap on it.

11 "Thus, I firmly believe that while our unit  
12 fought in various regions, we never did anything which  
13 in any way incurred the enmity of the Chinese natives.

14 "I once saw during the Honan operations a  
15 non-commissioned officer bitterly scolding some sol-  
16 diers who had intruded into a hamlet and were break-  
17 ing down a native's house.

18 "There was a soldier who was sentenced by  
19 the Court Martial of Hankow to one year and six  
20 months' penal servitude, because he had been found  
21 by an officer to have carried away things from the  
22 natives without compensation while requisitioning  
23 during a battle. I also know that of their acts of  
24 violence on women, one soldier was sentenced to three  
25 years, and two to seven years' penal servitude.



1 "hen we were in Liuchow, a soldier was sentenced to  
2 six months' penal servitude, for taking about 1 kg.  
3 of flour from a native child.

4 "Such was the actual conditions prevailing  
5 in our army. Our military morale toward the Chinese  
6 natives was strictly kept, and any offence, however  
7 trifle, when found, was court-martialed. So we  
8 tried to keep as much away from the natives as  
9 possible.

10 "4. I met Marshal HATA at the race course  
11 in Hankow. While our camp was being moved to  
12 the roof of the Army Club Building, we were prepar-  
13 ing for our start on the road in the compound of the  
14 race course. Marshal HATA came round and asked the  
15 soldiers various questions. He questioned me, too.  
16 So I answered him cheerfully. His questions were  
17 chiefly about food and feeding conditions. At the  
18 end, he told me to take care of myself and love the  
19 Chinese natives. I was much impressed by his kind-  
20 ness to give advice even to a simple soldier like  
21 me, telling me take care of myself and love  
22 the Chinese natives. I firmly made up my mind to  
23 follow his advice and stuck to my resolution for the  
24 rest of the time.

25 "On this 26th day of January, 1947."

1 The next offer in evidence defense document  
2 417, which is a Japanese army headquarters organiza-  
3 tion ordinance promulgated 10 July 1940, showing the  
4 Japanese army chain of command and the responsibili-  
5 ties of each level in that chain of command.

6 THE PRESIDENT: Brigadier Quilliam.

7 BRIGADIER QUILLIAM: May it please the  
8 Tribunal, this is the first of a series of docu-  
9 ments which are concerned with the organization and  
10 functions of officers in the Japanese army. It is  
11 submitted that these documents are irrelevant. The  
12 only item that we can point to in the document now  
13 under consideration is in Article 9, where it states  
14 that the army commander shall superintend matters  
15 concerning discipline. That, it is felt, might well  
16 be assumed, and it is submitted that the document  
17 has no value in the consideration of this case.  
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1 THE PRESIDENT: What use is it, Mr. Freeman?

2 MR. FREEMAN: If the Tribunal pleases, the  
3 accused in the dock are charged, among other things,  
4 with unlawfully killing and murdering many thousands  
5 of civilians and disarmed soldiers in the Republic of  
6 China, or else instigating or ordering it to be done.  
7 The defense contends that this line of command is the  
8 essence to place responsibility if such acts were  
9 committed.

10 THE PRESIDENT: But we know that the Japanese  
11 Army has a certain organization, like all other armies.  
12 We know that there are chains of command and respon-  
13 sibility. Of what are we ignorant that this discloses?

14 MR. FREEMAN: The defense contends that orders  
15 issued by headquarters establishing the responsibility  
16 of the different lines of command is very important.  
17 If the field commander had the entire responsibility  
18 for the commission of atrocities, if there were any,  
19 it is important that that be established. The Tribunal  
20 will note there are a number of articles that have been  
21 omitted.

22 THE PRESIDENT: You don't propose to read it,  
23 do you?

24 MR. FREEMAN: Yes, sir.

25 THE PRESIDENT: By a majority the Court upholds



1 the objection and rejects the document.

2 MR. FREEMAN: The defense next offers in  
3 evidence document 660 which is Interior Army regula-  
4 tions promulgated August 11, 1943, which has to do  
5 with the conduct of soldiers. It was issued by Army  
6 Headquarters.

7 THE PRESIDENT: Brigadier Quilliam.

8 BRIGADIER QUILLIAM: May it please the  
9 Tribunal, the prosecution object to this document  
10 which is the second of a series that I referred to.  
11 It is concerned primarily with the functions of the  
12 regimental commander, company commander, and other  
13 officers and, it is submitted, says neither more nor  
14 less than any similar document in respect of any other  
15 army would say.

16 THE PRESIDENT: Do you want all this read if  
17 it is admitted?

18 MR. FREEMAN: I didn't understand the Court.

19 THE PRESIDENT: Do you propose to read this  
20 if it is admitted?

21 MR. FREEMAN: I propose to read Chapter 1,  
22 that is on page 2, General Rules, and Articles 9, 10  
23 and 11 on that page. That is all.

24 THE PRESIDENT: I don't see the need to  
25 prove these things. I will see what my colleagues think.

1 By a majority the Court upholds the objection  
2 and rejects the document.

3 MR. FREEMAN: Defense next offers in evidence  
4 document No. 247, which contains excerpts from Division  
5 Headquarters Order, Army Regulation No. 13, dated  
6 10 July 1939, showing the responsibilities of a division  
7 commander in the Japanese Army.

8 THE PRESIDENT: Brigadier Quilliam.

9 BRIGADIER QUILLIAM: May it please the  
10 Tribunal, this is the third of a series. It is con-  
11 cerned with the functions of a divisional commander  
12 and the prosecution objects on the same grounds as  
13 before.

14 THE PRESIDENT: The Tribunal upholds the  
15 objection and rejects the document.

16 MR. FREEMAN: The next document we offer in  
17 evidence is document 1175, which is a note sent by  
18 Foreign Minister KONOYE to the ambassadors of various  
19 countries in Tokyo with respect to Japanese military  
20 operations in South China. This note was sent the  
21 12th day of October, 1938. This shows that the  
22 Japanese Government at all times endeavored in every  
23 way possible to protect the interests and properties  
24 of third powers while hostilities were going on.  
25

THE PRESIDENT: Brigadier Quilliam.

1           BRIGADIER QUILLIAM: May it please the  
2 Tribunal, the prosecution object to the introduction  
3 of this document, which is a press release. It is  
4 issued by the Information Bureau, as is shown, and  
5 there is no proof that it was ever communicated to  
6 any of the other powers. We submit that a matter of  
7 this kind should be proved in a proper manner and not  
8 in this way.

9           THE PRESIDENT: Mr. Freeman, what have you to  
10 say in support of the document?

11           MR. FREEMAN: It is offered in evidence to  
12 show that third powers -- that the Japanese Government  
13 attempted at all times to protect the rights and  
14 interests of third powers, and it is the best evidence  
15 we have. It has a certificate of source and authenticity  
16 from the Chief of Archives. It is an excerpt from  
17 an official document.

18           THE PRESIDENT: Its relevance and materiality  
19 are giving us concern. Not where it comes from. The  
20 source is high enough but that doesn't determine its  
21 quality.

22           By a majority the Court upholds the objection  
23 and rejects the document.

24           MR. FREEMAN: Defense next offers in evidence  
25 document 259, which is the address of Prime Minister



1 YONAI to the Diet on 1 February 1940, in which the  
2 Prime Minister explained to the Diet that Japan would  
3 not involve herself in the European conflict which had  
4 broken out but was interested only in terminating the  
5 China Incident.

6 THE PRESIDENT: Brigadier Quilliam.

7 BRIGADIER QUILLIAM: May it please the Tribunal,  
8 this is another speech by a prime minister. As your  
9 Honor mentioned this morning, similar speeches have  
10 been admitted, but the prosecution submits that this  
11 amiable collection -- amiable platitudes should be  
12 rejected as we have had this kind of thing too often  
13 before.

14 MR. FREEMAN: The defense submit that this  
15 document is of value. It is a speech by the prime  
16 minister. The fact the prosecution feels it is an  
17 amiable platitude is just one persons opinion. The  
18 accused here are charged with a conspiracy.

19 THE PRESIDENT: By a majority the Tribunal  
20 upholds the objection and rejects the document.

21 MR. FREEMAN: Mr. Williams will continue.  
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1 THE PRESIDENT: Mr. Williams.

2 MR. G. WILLIAMS: If the Tribunal please, at  
3 the request of Japanese counsel, I shall present one  
4 more document pertaining to Hankow. This is defense  
5 document No. 147, an article entitled, "Why do we  
6 attack Hankow?" by Shujitsu OZAKI, setting forth  
7 the reasons for the taking of Hankow by the Japanese.

8 We now offer defense document No. 147 into  
9 evidence.

10 THE PRESIDENT: Brigadier Quilliam.

11 BRIGADIER QUILLIAM: May it please the  
12 Tribunal, it is submitted that this is a particularly  
13 objectionable document. It purports to be an extract  
14 from some book published at some unstated time by some  
15 persons whom nobody else, I suggest, has ever heard of.  
16 It is submitted that it can have no probative value  
17 at all, and the prosecution asks that it should be  
18 rejected.  
19

20 MR. G. WILLIAMS: If the Tribunal please, I am  
21 not familiar with Japanese so I cannot say of my own  
22 knowledge that this is or is not an excerpt. My under-  
23 standing is that this is the article in its entirety.  
24 It is submitted that this is of definite probative  
25 value to Count 47, I believe it is, which charges the  
accused, certain of the accused, with violations of

1 international law in the attack on Hankow.

2 THE PRESIDENT: We are to be guided by his  
3 opinion on such evidence as he cares to take, and you  
4 submit that we should. This is an argument by a  
5 person who is not before us, who is not counsel, and  
6 who is not acting on the evidence before us. The  
7 thing is preposterous. It is the sort of thing that  
8 we condemned this morning in that statement. It  
9 achieves nothing but a waste of material and time.

10 The Tribunal upholds the objection and  
11 rejects the document.

12 MR. G. WILLIAMS: I might add, if your  
13 Honor please, just one comment. This was only ten-  
14 dered for the factual material it contains, and not  
15 for the opinion.

16 Although it is somewhat out of order at this  
17 stage of the China Phase, it is felt that the Treaty  
18 of Commerce and Navigation of 1896 between China and  
19 Japan should be offered as essential background  
20 material. This treaty is embodied in defense document  
21 No. 792, which we now offer in evidence.

22 THE PRESIDENT: Brigadier Quilliam.

23 BRIGADIER QUILLIAM: May it please the  
24 Tribunal, the prosecution is concerned to know what  
25 relevance the defense attaches to this document. In



1 our submission it is irrelevant, but it is a volu-  
2 minous document and it may well be that we missed some  
3 point upon which the defense rely.

4 THE PRESIDENT: We have yet to see it.

5 MR. G. WILLIAMS: I am sorry, your Honor.  
6 I was informed that all documents had been sent to  
7 the clerk.

8 THE PRESIDENT: Well, proceed with some  
9 other matter, Mr. Williams.

10 MR. G. WILLIAMS: In refutation of the charge  
11 of economic exploitation contained in Section 3,  
12 Appendix A of the Indictment, we offer a list of  
13 industrial plants returned to the Chinese from temporary  
14 military control, contained in defense document  
15 No. 1436, which we now offer in evidence.

16 THE MONITOR: This is out of order, so will  
17 you give us a few moments, please?

18 MR. G. WILLIAMS: I skipped document 1133.

19 THE MONITOR: Thank you.

20 THE PRESIDENT: Brigadier Quilliam.

21 MR. G. WILLIAMS: If the Tribunal please,  
22 although this is a newspaper article, it is submitted  
23 that its contents are of sufficient importance and  
24 in adequate detail to warrant the receipt into evidence  
25 of this document by the Tribunal.

1 THE PRESIDENT: Brigadier Quilliam.

2 BRIGADIER QUILLIAM: May it please the  
3 Tribunal, we cannot object to the relevance of the  
4 contents of this document, but as the certificate shows,  
5 it is merely an extract from a newspaper article.

6 THE PRESIDENT: The man who wrote it may have  
7 drawn on his imagination. We don't know who he is.  
8 We don't even know the date.

9 BRIGADIER QUILLIAM: That is our objection,  
10 if it please your Honor. There is nothing to  
11 indicate its authenticity.

12 MR. G. WILLIAMS: If the Tribunal please, the  
13 certificate on the back shows it was issued on July 7,  
14 1941.

15 THE PRESIDENT: That appears to be the year.

16 MR. G. WILLIAMS: In the absence of other  
17 material on this point, your Honor, we urge that this  
18 be received although it is a newspaper article.

19 THE PRESIDENT: Surely there are other means  
20 available to you of proving this.

21 MR. G. WILLIAMS: If your Honor please, if any  
22 of this material offends the Court's ruling this  
23 morning, I should like to add, or point out, that I  
24 had nothing to do with the preparation of this material  
25 and was only familiar with it as of yesterday.

1 THE PRESIDENT: Our observations are quite  
2 impersonal, Mr. Williams.

3 The Tribunal upholds the objection and rejects  
4 the document.  
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1 MR. G. WILLIAMS: I made that observation,  
2 your Honor, so that it would not be thought by the  
3 Tribunal that there is or is not other material on  
4 this point. I merely cannot give an answer to your  
5 Honor's observation.

6 In order to show the instructions to the  
7 Japanese Army concerning its behavior and actions  
8 toward the Chinese given while the defendant HATA was  
9 Commander in Chief of the China Expeditionary Forces,  
10 we offer in evidence defense document No. 1274.

11 I am sorry, your Honor, I have just been  
12 informed by the prosecution that this is an exhibit  
13 already.

14 THE PRESIDENT: You withdraw the tender,  
15 I suppose?

16 MR. G. WILLIAMS: I withdraw the document.

17 In answer to the allegations contained in  
18 prosecution exhibit No. 971 to the effect that American  
19 properties in Shanghai have not been protected by the  
20 Japanese--

21 THE MONITOR: Mr. Counsel, we do not have the  
22 leading sentence and it has not been submitted to the  
23 section. We may have to do it relay system.

24 THE PRESIDENT: We do not want any relays if  
25 it can be helped except for a line or two.

1 MR. G. WILLIAMS: I regret that I do not  
2 have an adequate and complete running commentary in  
3 the hands of the translation section. I ask that  
4 brief translations be given as I go along with the  
5 indulgence of the Tribunal.

6 THE PRESIDENT: How long is the statement  
7 you propose to read?

8 MR. G. WILLIAMS: Your Honor, this statement  
9 is only one page and two lines.

10 THE PRESIDENT: Why put us in this predicament  
11 of having to give a decision on such a point?

12 Brigadier Quilliam, are you objecting to the  
13 document?

14 BRIGADIER QUILLIAM: If it please your Honor,  
15 we do object. It is a Foreign Office spokesman docu-  
16 ment of the kind that has previously been rejected by  
17 the Tribunal, document No. 1329.

18 THE PRESIDENT: We have consistently rejected  
19 statements by the spokesmen of the Foreign Office.

20 MR. G. WILLIAMS: I am aware of that, your  
21 Honor. This was a direct answer to the prosecution's  
22 exhibit and therefore I thought the Tribunal might be  
23 interested in having it, seeing it.

24 THE PRESIDENT: Every line of evidence you  
25 tender is an answer or supposed to be.

Mr. Lazarus.

1 MR. LAZARUS: If the Tribunal please, as the  
2 Tribunal is aware, I am the chairman of the China  
3 phase. In accordance with the Tribunal's request  
4 this morning for the cooperation of the defense in  
5 keeping out documents which patently the Tribunal  
6 will refuse, I spent the morning and the afternoon  
7 pulling out documents in the remainder of the China  
8 phase with the result that we are ready at this time  
9 to present only one more subdivision, namely, the  
10 last one on the Wang Ching-wei government. I will  
11 pull out all the remaining documents in the China  
12 phase for the first five subdivisions except the  
13 affidavits of five witnesses who will be presented,  
14 probably tomorrow.  
15

16 Because of the paper shortage during this  
17 entire week the prosecution had been unable, in spite  
18 of its desire to assist us, in producing any documents  
19 for us whatsoever this week, with the result that we  
20 are not quite ready to proceed with the last sub-  
21 division, the Wang Ching-wei.

22 THE PRESIDENT: You have five witnesses for  
23 tomorrow, is that so?

24 MR. LAZARUS: I beg your pardon, sir?

25 THE PRESIDENT: You have five witnesses?



1 MR. LAZARUS: If their affidavits will  
2 come through on time, sir, but we doubt it. This  
3 afternoon the prosecution notified us that they had  
4 received paper and are again beginning to process  
5 our documents, but because no documents to speak of  
6 were processed this week either by the prosecution  
7 for us or by the defense section because of the lack  
8 of paper, and because of the fact that we are pulling  
9 out all documents except in the last subdivision, we  
10 respectfully request this Tribunal not to sit tomorrow  
11 and give us one day to reform our lines and present  
12 only the last subdivision in the China phase beginning  
13 Monday morning. I could take tomorrow and present  
14 to you gentlemen documents that would keep us in  
15 court all day but we are sure you will knock out most  
16 of them, and in accordance with your request we highly  
17 desire to cooperate with you and we respectfully sub-  
18 mit if the adjournment is given to us we will not  
19 submit these documents. We will present Monday  
20 morning the Wang Ching-wei and only the few affidavits  
21 remaining in this subdivision and no further documents  
22 in the fifth subdivision.

23 THE PRESIDENT: What have you to say, Mr.  
24 Tavenner?

25 MR. TAVENNER: I am very much surprised to

1 hear that there have been no documents processed during  
2 the period of time counsel stated as we gave instruc-  
3 tions not to stop the delivery of paper. There may  
4 have been a confusion of orders in regard to the matter  
5 which I will investigate. If the defense does not  
6 have the documents to proceed, I do not see that the  
7 prosecution can make any suggestion about the matter.

8 THE PRESIDENT: Apparently we must accede,  
9 as a Member of the Tribunal has observed.

10 We will adjourn until half-past nine on  
11 Monday morning.

12 MR. LAZARUS: Thank you, sir.

13 (Whereupon, at 1553, an adjournment was  
14 taken until Monday, 12 May 1947, at 0930.)

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